THE BENGAL CODE.

In Four Volumes;

CONTAINING

The Regulations, Ordinance and Local Acts in force in the Presidency of Fort William in Bengal;

WITH

Tables and Lists, Notes as to Scheduled Districts and De-Regulationised Tracts, and Notifications declaring Enactments in force in, or extending Enactments to, such Districts and Tracts,

and a Full Index.

FOURTH EDITION.

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VOLUME III:

Part I.—Bengal Acts, 1891 to 1914

Part II.—Eastern Bengal and Assam Acts, 1907 to 1912.

Edited in part by A. W. Watson, I.C.S., Secretary to the Govt. of Bengal, Legislative Department.)



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THE BENGAL CODE.

VOLUME III.

Part I.—Bengal Acts, 1891 to 1914.

Part II —Eastern Bengal and Assam Acts, 1907 to 1912.

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PREFACE.

THE original manuscript of the contents of this Volume excluding the Bengal Acts of 1913 and 1914 was prepared by Mr Wigley before he left India in the spring of 1913 Owing however to his inability to complete the work after his arrival in England the publication of the Volume has been unavoidably postponed and it has accordingly been necessary to revise the Chronological Table and notes in many instances For the notes relating to the Bengal Acts of 1913 and 1914 I am solely responsible

A W WATSON,

Secretary to the Government of Bengal,
Legislative Department

CALCUTTA,
The 4th May 1915

CHRONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME

[With respect to the entry of repealing enactments in column 4 of this table, the following has been the ordinary practice —

(1) where an enactment has been totally repealed more than once, the latest repealing enactment has alone been entered ,

(2) where an enactment has been partially repealed and afterwards totally repealed, the total repeal only has been entered a repeal of the unrepealed portions of an enactment is treated as a total repeal ,

(3) *partial repeals covered by later partial repeals have not been entered* ,

(4) local repeals covered by later local repeals have not been entered ,

(5) where an enactment has been locally repealed and afterwards repealed by an enactment whose operation is unrestricted, the later repealing enactment has alone been entered]

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„	2	The Calcutta Port (Amendment) Act, 1894	Short title given, Act 1 of 1903 ... S 1 rep , Act 1 of 1903	49

[1] The expression " Ben Act " or " Bengal Act," as used in this Code, means an Act made by the Lieutenant Governor of Bengal in Council or the Governor of the Presidency of Fort William in Bengal in Council, as the case may be—*cf* the Bengal General Clauses Act, 1899 (Ben Act 1 of 1899), s 3, cl (*6*), *post*, p 174

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[1] The expression "E B and A Act," or "Eastern Bengal and Assam Act" as used in this Code means an Act made by the Lieutenant Governor of Eastern Bengal and Assam in Council —*cf* the Eastern Bengal and Assam General Clauses Act, 1909 (E B and A Act 1 of 1909), s 3, *post* p. 967

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THE BENGAL CODE.

VOLUME III.

BENGAL ACTS, 1891 TO 1914, AND EASTERN BENGAL AND ASSAM ACTS, 1907 TO 1912.

PART I.—BENGAL ACTS OF 1891 TO 1914, IN FORCE IN THE PRESIDENCY OF FORT WILLIAM IN BENGAL

BENGAL ACT 2 OF 1891

(THE CALCUTTA HACKNEY CARRIAGE ACT 1891)

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CHAPTER VII

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BENGAL ACT 2 OF 1891

(THE CALCUTTA HACKNEY-CARRIAGE ACT, 1891).[1]

(23rd September, 1891.)

An Act to consolidate and amend the law relating to Hackney-carriages and *Palanquins* in Calcutta.

WHEREAS it is expedient to consolidate and amend the law relating to hackney-carriages and *palanquins* in Calcutta;

It is hereby enacted as follows —

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Calcutta Hackney-carriage Act, 1891 — Title

by the Repealing and Amending
nown as the Amending Act, 1903,

(*3*) It shall apply to Calcutta as hereinafter[2] defined, and may be extended from time to time to any other town or place in Bengal[3] by a notification[4] published in the Calcutta Gazette — Application and extension of Act

2. (*1*) Acts 5 of 1866 and 4 of 1878[5] are hereby repealed. — Repeal

---

Gazette, 1891,

other town or
4 As to the
xtended to any
place, *see* s 61 *post* p 23

The application of the Act is barred in the Chittagong Hill tracts by the Chittagong Hill tracts Regulation, 1900 (1 of 1900) s 4 (*2*) printed in Vol I of this Code

EXTENSION OF PARTS OF THIS ACT TO CALCUTTA TRAMWAYS.—As to the exercise by the Corporation of Calcutta in respect of tramways of the powers of control given to them by this Act in respect of hackney-carriages *see* the Calcutta Tramways Act 1880 (Ben Act 1 of 1880) s 26, in Vol II of this Code

on the carriage
Municipal Act,
fection of public

iages and *palan*
1904), s 4 (*a*),
post p 510

on the 31st
and for further
azette, 1912,

(Chapter I—Preliminary—Secs 3 4)

Sa n s (2) This repeal shall not affect the validity of anything done or suffered or of any right title obligation or liability which may have accrued and all appointments extensions and registrations made licenses issued notifications published penalties incurred and other things duly done under any such enactments shall so far as they are consistent with this Act be deemed to have been respectively made issued published incurred or done hereunder

(3) All references made to any such enactment shall as far as may be practicable be deemed to be made to this Act

(4) All proceedings now pending which may have been commenced under any such enactment shall be deemed to be commenced under this Act

Defi on **3** In this Act unless there is something repugnant in the subject or context —

(1) Calcutta (subject to the inclusion or exclusion of any local area by the Local Government under section 4) means Calcutta as defined by the Calcutta Municipal Consolidation Act 1888[1] Be 1888

(2) hackney carriage means any wheeled vehicle drawn by horses and used for the conveyance of passengers which is kept or offered or plies for hire by the hour or day or according to distance but shall not include any carriage used wholly upon any railway or tramway

(3) horse includes mule and pony

(4) stage carriage means any hackney carriage the passengers in which shall be charged or shall pay separate and distinct fares or shall be charged or pay at the rate of separate and distinct fares for their respective places or seats therein or conveyance thereby

(5) the Commissioners means the Corporation of Calcutta[2]

Al e a of l of Calcu a **4** The Local Government may by notification[3] published in the Calcutta Gazette exclude from Calcutta any local area or include therein any local area in the vicinity of the same and defined in the notification

P o o Provided that where the local area to be included is a Military Cantonment or part of a Military Cantonment a notification shall not be published under this section in respect of it without the previous sanction of the Governor General in Council

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A [1] Be

u t 1

of 1891.]

(Chapter II.—Registration of Hackney-carriages.— Secs. 5-8.)

CHAPTER II

REGISTRATION OF HACKNEY-CARRIAGES

5. (*1*) Every hackney-carriage in Calcutta[1] shall be annually registered[2] by Registering Officer, who shall be appointed[3] for the purpose by the Commissioners[4] and who shall keep a register in which he shall enter every hackney-carriage under either the first, the second or the third class. Hackney carriages to be registered annually.

(*2*) Every act, matter or thing done by the Registering Officer, under or by virtue of this Act, shall be subject to the control of the Chairman of the Commissioners.[5] Registering Officer to be under control of Chairman of Commissioners.

(*3*) The appointment and removal of such Registering Officer shall be subject to the provisions of section 41[6] of the Calcutta Municipal Consolidation Act, 1888. Appointment and removal of Registering Officer.

6. The year of registration shall commence on the first day of October of each year and shall terminate on the 30th day of September following. Time and duration of registry.

7. (*1*) The owner of any carriage who is desirous of registering it as a hackney-carriage shall apply to the Registering Officer stating the class in which he desires that the carriage may be registered, and shall submit the carriage for the inspection of the Registering Officer. Application for registry.

(*2*) The Registering Officer shall decide whether the carriage is fit to be registered in the class applied for and shall register it in that class or refuse to grant the application. Application may be granted or refused.

(*3*) The person in whose name any carriage is registered shall be deemed the owner of such carriage for the purposes of this Act. Owner of carriage.

8. (*1*) The Registering Officer shall, at the time of registration, deliver a license duly signed by him to the owner of every hackney-carriage. License to be delivered to owner.

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[2] For a list of orders made under section 5(1) for Bengal as constituted on the 31st March

... he duties imposed

... ties imposed and ... 93

... Act, 1899 (Ben ... of the latter Act ... 180 ... 1899 (Ben. Act

... 41 of the Calcutta ... Act, 1888"—see

Duration of license

(2) Such license shall be in force for the year of registration

Particulars of register and license

9. The following particulars shall be entered in the register and shall be specified in the license to be given to the owner:—

(a) the class and the number assigned to the carriage in the register

(b) the name and residence of the owner, the description of the carriage, and the place where such carriage is intended to be kept,

(c) the number and description of horses to be employed in drawing such carriage and the place where such horses are intended to be kept,

(d) the number of persons the carriage is licensed to carry.

Fee for registration

10. A fee of four rupees shall be paid for each registration of a carriage of the first class, a fee of three rupees for each registration of a carriage of the second class, and a fee of two rupees for each registration of a carriage of the third class

Registration of carriage and driver's license may be suspended or cancelled

11. The Registering Officer may suspend for such period as he thinks fit or cancel the registration of any carriage and the license granted to the driver under this Act, whenever it shall appear to him that such carriage or any horse or harness used with such carriage is unfit for public use; due regard being had to the class in which such carriage is registered.

Notice to be given of change of ownership

12. (1) Whenever any change shall take place in the ownership of a hackney-carriage, if the person to whom such carriage shall have been transferred shall desire to use it as a hackney-carriage, he shall before so using it give to the Registering Officer notice in writing of such transfer, and shall include in such notice the particulars specified in clauses (b) and (c) of section 9

Penalty for using carriage before giving notice

(2) If any such person shall, before giving such notice as aforesaid, use such carriage as a hackney-carriage, he shall be liable to a fine not exceeding five rupees for every day during which he shall so use the same

Notice to be given of change of residence or place

13. (1) Whenever the owner or driver of a registered hackney-carriage shall change his residence or the place where such carriage and horses are kept, he shall, within one week from the date of such change, give to the Registering Officer a notice in writing which shall include the particulars specified in clauses (b) and (c) of section 9.

Penalty for neglect to give notice

(2) Every such owner or driver who shall neglect to give such notice shall be liable for every such offence to a fine not exceeding ten rupees.

Change of ownership or residence to be entered in register

14. The Registering Officer, on receiving the notices specified in either of the two last preceding sections, shall make the necessary alteration in the register and in the license; and a fee of eight annas shall be chargeable in respect thereof

Penalty for keeping unregistered carriage.

15. (*1*) Whoever keeps or is the proprietor of any hackney-carriage which has not been duly registered under this Act shall be liable to a fine not exceeding one hundred rupees.

Seizure of such carriage and horse.

(*2*) Any police-officer or any person duly authorized by the Commissioners[1] in that behalf and wearing a distinctive badge to indicate his official capacity may seize and remove to a police-station such carriage, together with the horse drawing the same.

When such carriage or horse may be sold.

(*3*) If the hackney-carriage or horse so seized be not claimed, and if any fine imposed be not paid together with any costs or charges incurred within ten days of such seizure or imposition of such fine respectively, such carriage and the horse seized therewith may be sold by auction, and the proceeds applied to the payment of the fine and all costs and charges incurred on account of the detention and sale.

When surplus to be credited to Hackney-carriage Fund.

(*4*) The surplus, if any, if not claimed by the owner within a further period of twenty days, shall be credited to the Hackney-carriage Fund.

CHAPTER III.

PLATE ON HACKNEY-CARRIAGE.

Plate to be affixed outside carriage.

16. Upon the registration of any hackney-carriage, the Registering Officer shall provide a plate bearing the class and the number of such carriage in the register and the number of persons it is licensed to carry, and shall cause such plate to be affixed on some conspicuous part of the outside of the carriage.

Penalty for using carriage without plate.

17. If any hackney-carriage shall be let, used, or ply for hire without having a proper plate duly affixed as required by the last preceding section, the owner thereof shall be liable to a fine not exceeding fifty rupees.

New plate may be had on loss or obliteration of former one.

18. Whenever the words or figures on any plate shall, during the term of the license, become indistinct or obliterated, and also whenever any plate shall have been lost or stolen, the owner of the hackney-carriage on which such plate was affixed shall deliver such plate (if he shall have the same in his possession) to the Registering Officer, and shall be entitled to have a new plate affixed upon payment of one rupee:

Penalty for using obliterated plate or for failing to deliver lost plate when recovered.

Provided that if any plate which shall have been proved to have been lost or stolen shall afterwards be recovered, the same shall forthwith be delivered to the Registering Officer, and every person in or into whose possession any such plate as last aforesaid shall be or come and who shall refuse or neglect for

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[1] For power to appoint persons to perform and exercise beyond Calcutta the duties imposed and the powers conferred on "the Commissioners," see s. 61 (*1*), *post*, p. 23.

(Chapter III.—Plate on Hackney carriage.—Chapter IV.—Driver's License.—Secs 19-21.)

three days to deliver the same to the said Registering Officer and also every registered owner who shall use or permit to be used any plate after the writing thereon shall have become indistinct or obliterated shall for every such offence be liable to a fine not exceeding ten rupees.

Plate to be delivered on expiry of registration.

19. *(1)* On the expiration or other determination of the registration the owner of every hackney carriage shall cause the plate of such hackney carriage to be delivered to the Registering Officer.

Penalty for neglect to deliver plate.

(2) Any person who after the expiration of the period aforesaid shall wilfully neglect for three days to deliver the plate to the said Officer and every person who shall retain any plate affixed in respect of a registration which is no longer in force shall for every such offence be liable to a fine not exceeding fifty rupees.

Penalty for fraudulent use of plate.

20. *(1)* Every person who shall for the purpose of deception use or have any plate resembling or intended to resemble any plate affixed under this Act shall for every such offence be liable to a fine not exceeding two hundred rupees.

Police may seize counterfeit plate.

(2) It shall be lawful for any Police officer or any person employed for the purposes of this Act by the Registering Officer to seize and take away any plate used or had as aforesaid wherever the same may be found and to deliver the same to the Registering Officer.

CHAPTER IV

DRIVER'S LICENSE

Drivers of hackney carriage to be licensed.

21. *(1)* It shall be lawful for the Registering Officer to grant a license to act as driver of any hackney carriage to any person who shall apply for the same and to whom it may seem proper to the said Officer to grant it:

Proviso.

Provided that no person shall be so licensed who is under sixteen years of age.

Particulars of license.

(2) Every such license shall contain—

(*a*) the number of the license;

(*b*) the name, father's name, place of abode and age of the person to whom such license is granted;

(*c*) the description of carriage and horses such person is licensed to drive;

(*d*) the date on which the license was granted;

and shall bear the signature of the Registering Officer.

(Chapter IV —Driver's License —Chapter V —Driver's Ticket — Secs. 22-25.)

(3) The license shall continue in force for one year from the date thereof unless the same shall be sooner revoked or suspended. Duration of license

(4) For every such license there shall be paid a fee of two rupees. Fee for license

22. If any person shall act as the driver of a hackney-carriage without having a license in force for the time being, or having a license shall transfer or lend the same or allow the same to be used by any other person, he shall be liable to a fine not exceeding twenty rupees and in default of payment of fine to imprisonment for a period not exceeding fourteen days. Penalty for not having license or lending it out

23. Any owner of a hackney-carriage who shall suffer any person not duly licensed under this Act to act as driver of any hackney-carriage of which he shall be the owner, shall be liable, for every such offence, to a fine not exceeding fifty rupees. Penalty for suffering unlicensed person to act as driver

Provided that such owner and such unlicensed driver shall be subject to all the provisions of this Act for any act done or omitted to be done by such driver during such employment in like manner as if such driver had been duly licensed. Proviso

24. The particulars of every license which shall be granted under the provisions of this Act shall be entered in books to be kept for that purpose at the office of the Registering Officer, and every person applying shall, at all reasonable times, be furnished with a certified copy of such particulars on payment of a fee of eight annas. Particulars of license to be registered and copy given on payment of fee

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CHAPTER V

DRIVER'S TICKET

25. (1) The Registering Officer shall, at the time of granting a license to any driver of a hackney-carriage, deliver a metal ticket marked or engraved with a number corresponding with the number of his license. Driver to wear metal ticket

(2) Every driver to whom such ticket is delivered shall at all times while acting as driver or while attending before any Magistrate, carry such ticket exposed to view. Driver to wear ticket exposed to view

(3) In case any such driver shall omit to wear such ticket exposed to view while acting as driver or attending before a Magistrate, he shall be liable to a fine not exceeding ten rupees, and in default of payment of fine to imprisonment for a period not exceeding one month. Penalty for omitting to wear ticket

Driver entitled to new ticket on loss or obliteration of former one

26. Whenever the number on any ticket shall, during the term of the license, become indistinct or obliterated, and also whenever any ticket shall have been lost or stolen, the person to whom the license relating to any such ticket shall have been granted shall deliver such ticket (if he shall have the same in his possession) and shall produce such license to the Registering Officer, and such person shall then be entitled to have a new ticket delivered to him upon payment of eight annas:

Penalty for using obliterated ticket or for failing to deliver lost ticket when recovered

Provided that, if any ticket which shall have been proved to have been lost or stolen shall afterwards be recovered, the same shall forthwith be delivered to the Registering Officer; and every person in or into whose possession any such ticket as last aforesaid shall be or come, who shall refuse or neglect for three days to deliver the same to the said Registering Officer, and also every person licensed under the authority of this Act who shall use or wear the ticket granted to him after the writing thereon shall have become indistinct or obliterated, shall, for every such offence, be liable to a fine not exceeding ten rupees, and, in default of payment of fine, to imprisonment for a period not exceeding seven days.

License and ticket to be delivered on expiry

27. (*1*) Upon the expiration or other determination of any license granted to a driver under this Act, such driver shall deliver such license and the ticket relating thereto to the Registering Officer.

Penalty for neglecting to deliver such license and ticket

(*2*) Every driver who shall neglect for three days to deliver such expired license and ticket to the said Officer, and also every person who shall use, wear or detain any such expired license or ticket, or other than such as shall have been delivered to him under the provisions of this Act, and every person to whom any ticket shall have been delivered as aforesaid who shall lend such ticket to any other person, and every person who shall wear or use the ticket of any other person, shall, for every such offence, be liable to a fine not exceeding twenty rupees, and, in default of payment of fine, to imprisonment for a period not exceeding one month.

Penalty for using or wearing counterfeit ticket

28. (*1*) Every person who shall, for the purpose of deception, use or wear any ticket resembling or intended to resemble any ticket granted under the authority of this Act shall, for every such offence, be liable to a fine not exceeding one hundred rupees, and, in default of payment of fine, to imprisonment for a period not exceeding one month.

Police may seize counterfeit ticket

(*2*) It shall be lawful for any police officer or any person employed for the purposes of this Act by the Registering Officer to seize and take away any such expired or counterfeit ticket wheresoever the same may be found, and to deliver the same to the Registering Officer.

Penalty for failing to produce license before Magistrate

29. (*1*) Whenever any driver shall be summoned to appear before any Magistrate to answer any charge preferred against him under this Act, he shall carry with him his license and produce the same if required so to do, and

any driver who shall on such requisition fail to produce such license shall, for every such offence, be liable to a fine not exceeding five rupees, and in default of payment of fine to imprisonment for a period not exceeding seven days.

(*2*) It shall be lawful for any Magistrate, on conviction of any driver of any offence under this Act, to endorse on such license the nature of the offence, the date of the conviction and the amount of the penalty inflicted. Conviction of any charge to be endorsed on driver's license.

30. (*1*) It shall be lawful for any Magistrate before whom any driver shall be convicted of any offence, whether under this Act or under any other Act to revoke the license of such driver or to suspend the same for such time as the Magistrate shall think proper, and for that purpose to require the driver or any other person in whose possession such license and the ticket thereto belonging shall then be, to deliver up the same. Revocation or suspension of driver's license on conviction.

(*2*) Every driver or other person who being so required shall refuse or neglect to deliver up such license and such ticket, shall be liable for every such offence to a fine not exceeding twenty rupees, and in default of payment of fine to imprisonment for a period not exceeding fourteen days. Penalty for refusal or neglect to deliver up license.

(*3*) The Magistrate shall forward every license and every ticket so delivered up to him to the Registering Officer, together with a memorandum of his sentence in the case. Magistrate to send surrendered license to Registering Officer.

(*4*) The Registering Officer shall enter the fact of such sentence in the register referred to in section 9, and shall either suspend or cancel such license according to the sentence of the Magistrate, and if it has been suspended the Registering Officer shall, on application at the end of the time of suspension re-deliver such license or ticket to the person to whom it was granted. Cancellation or re-delivery.

CHAPTER VI

Fares, Hiring and Plying for Hire

31. (*1*) The owner or driver of every hackney-carriage shall be entitled to demand and take for the hire of such carriage the fares specified in the first Schedule to this Act. Fares to be paid for hackney carriages.

Provided that when the owner or driver of any hackney-carriage, to be paid a fare calculated according to the distance, shall be required by the hirer thereof to stop such carriage for any time or times amounting altogether to not less than fifteen minutes, it shall be lawful for the owner or driver to demand and receive from the hirer so requiring him to stop a further sum of one-fourth of the rate for the first hour, for every fifteen minutes that he shall have been so stopped. Proviso.

Back fare not to be demanded.

(2) No owner or driver shall demand or receive over and above the said fare any sum for back fare for the return of the carriage from the place at which it was discharged:

Contract for lower fares to be binding.

Provided that any contract entered into to accept a fare lower than the fare so fixed shall be binding.

Owner to keep list of fares inside carriage.

32. (*1*) The owner of every registered hackney-carriage shall put up and at all times keep distinctly printed, painted or marked in the English, Urdu and Bengali languages[1] in such manner and in such position as shall be directed by the Registering Officer, on the inside of such carriage, the amount of fare according to distance and time which may legally be demanded and taken from the hirer of such carriage as a hackney-carriage.

Penalty for breach.

(*2*) Every such owner who shall fail to comply with the provision of this section shall, for each offence, be liable on conviction to a fine not exceeding ten rupees.

Driver bound to drive.

33. (*1*) The driver of every registered hackney-carriage shall (unless he has a reasonable excuse to be allowed by the Magistrate before whom the matter shall be brought in question) drive such carriage to any place to which he shall be required by the hirer thereof to drive the same, not exceeding six miles from the place where the same shall have been hired.

Speed when hired by time.

(*2*) When any such carriage shall have been hired by time, the driver thereof shall drive the same at a rate not less than four miles within one hour, and if the driver of such carriage shall be required to drive more than four miles within one hour, then in every such case the driver thereof shall be entitled to demand, in addition to the fare regulated by time in the first Schedule to this Act for every mile or any part thereof exceeding four miles, the fare regulated by distance as set forth in that Schedule.

Penalty for failure.

(*3*) Any such driver failing without reasonable excuse to comply with the provisions of this section shall be liable to a penalty not exceeding ten rupees, and in default of payment of fine to imprisonment for a period not exceeding seven days.

Quantity of luggage to be carried free of charge.

34. The driver of every registered hackney-carriage shall carry in or upon such carriage a quantity of luggage not exceeding two *maunds*, together with one additional *maund* for every person below four carried in the carriage without any additional charge.

Penalty for refusing to let a carriage for hire.

35. Any owner, person in charge of any registered hackney carriage or driver who shall without sufficient reason refuse to let such carriage for hire, shall be liable for every such offence to a fine not exceeding fifty rupees, and to pay

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[1] In places beyond "Calcutta," as defined in s. 3 (*1*), the words "or such other languages as the Local Government may by notification in the Calcutta Gazette, prescribe," must be read in here—see s. 61 (2) *post*, p. 23.

For a list of orders made under s. 32 (*1*), as so amended, for Bengal as constituted on the 31st March 1912 see the Bengal Local Statutory Rules and Orders 1912, Vol. I, Pt. VI.

(*Chapter VI—Fares, Hiring and Plying for Hire—*
Secs 36, 37)

such further sum by way of compensation to the party complaining as to the Magistrate who shall hear the case may seem just, and such further sum shall, in default of immediate payment, be levied in the mode provided for the levying of fines under this Act

Penalty on driver for certain offences

36. Every driver of a hackney-carriage who shall—

(*a*) be drunk during his employment,

(*b*) make use of insulting or abusive language or gesture,

(*c*) stand (elsewhere than at some stand or other place appointed for the purpose) or loiter for the purpose of being hired in or upon any public street, road, or place,

(*d*) suffer his carriage to stand for hire across any street or alongside of any other carriage,

(*e*) refuse to give way (when he reasonably and conveniently may do so) to any other carriage,

(*f*) wilfully obstruct or hinder the driver of any other carriage in taking up or setting down any person into or from such other carriage,

(*g*) wrongfully prevent or endeavour to prevent the driver of any other carriage from being hired,

(*h*) demand or take more than the proper fare to which he is legally entitled,

(*i*) refuse to admit and carry in his carriage the number of persons painted or marked on the registered plate affixed to such carriage or specified in the register,

(*j*) carry more than such number of passengers

(*k*) refuse to carry by his carriage a reasonable quantity of luggage,

(*l*) before he has been discharged by the hirer, (being hired by time) desert from the hiring,

(*m*) ply for hire with any carriage or horse which shall be at the time unfit for pulic use,

shall be liable to a fine not exceeding ten rupees and in default of payment of fine to imprisonment for a period not exceeding seven days

Penalty on driver for refusing to attend at premises of owner

37. Any driver employed as such by the owner of any registered hackney-carriage who shall, without sufficient excuse, refuse or neglect to attend at the premises of such owner for the purposes of driving any such carriage, whereby

such owner is prevented from letting out the same, shall, on complaint by such owner, be liable for each offence to a fine not exceeding ten rupees, (which or any part of which may, by order of the Magistrate, be paid to the owner as compensation) and in default of payment of fine to imprisonment for a period not exceeding seven days

Owner may be summoned to appear before Magistrate and to produce driver

38. *(1)* When a complaint is made before a Magistrate against the driver of a registered hackney-carriage for any offence committed by him against the provisions of this Act, such Magistrate may forthwith summon the owner of the carriage personally to appear and to produce the driver of such carriage to answer the complaint

Penalty for neglecting to appear or to produce driver

(2) If such owner, being duly summoned, shall without a reasonable excuse neglect or refuse personally to appear or to produce the driver according to such summons, he shall be liable to a fine not exceeding fifty rupees, and so from time to time as often as he shall be so summoned, until such driver shall be produced by him

Magistrate [illegible] hear and determine complaint on failure to appear

Provided that if such owner shall, without a reasonable excuse, neglect or refuse to appear and produce such driver on the second or any subsequent summons requiring him so to do it shall be lawful for the Magistrate to proceed to hear and determine the complaint in the absence of the owner and driver or either of them

Procedure on refusal to pay fare

39. *(1)* If any person who shall have hired a registered hackney-carriage shall refuse to pay to the owner or driver thereof on demand the fare payable under this Act, it shall be lawful for the Magistrate to order payment of such fare and also of such compensation for loss of time as shall seem reasonable and in default of payment such fare and compensation may be recovered in the same way as a fine

Penalty for [illegible]

(2) If any person who shall have used any such carriage shall attempt to evade payment of the fare or any portion of the same which he may be deemed liable to pay, he shall be liable to a fine not exceeding fifty rupees, or to imprisonment for a period not exceeding one month in addition to the payment of such fare and compensation as hereinbefore mentioned

Penalty for destroying carriage-plate, etc

40. *(1)* Any person who shall maliciously or knowingly tear, destroy, deface, obliterate or remove any carriage-plate table of fares or driver's ticket which shall have been granted under the provisions of this Act shall be liable for every such offence to a fine not exceeding twenty rupees and in default of payment of fine to imprisonment for a period not exceeding fourteen days

Award of fine to owner of carriage-plate etc

(2) Any portion of the fine may be awarded to the person to whom such carriage-plate, table of fares or driver's ticket shall belong

(Chapter VI—Fares, Hiring and Plying for Hire—Secs 41-45)

Penalty for wilful injury to carriage

41. Any person using a registered hackney-carriage who shall wilfully injure the same shall be liable to a fine not exceeding twenty rupees, and in default of payment of fine to imprisonment for a period not exceeding fourteen days, and shall also pay to the owner of the carriage such compensation for the injury as the Magistrate may direct

Disputes how to be settled

42. In case of any dispute between the hirer and driver of any registered hackney-carriage, the hirer may, if any Magistrate be then sitting, require the driver to drive to the Court of such Magistrate, or, if no Magistrate be then sitting, to the Registering Officer, and if any driver shall refuse to obey such requisition, it shall be lawful for the hirer to give such driver into the custody of the nearest police officer, such police-officer shall thereupon take the driver and the hirer together with [illegible] h Court or Registering Officer ar[illegible] rate or Registering Officer shall in [illegible] hear and determine the dispute in a summary way

Table of distances signed by Registering Officer conclusive

43. In the case of disputes as to the fare to be calculated [illegible] ce, any table or book signed by the [illegible] on proof of such signature, be taken [illegible] of the distances therein stated

Hackney carriage may ply for hire as stage carriage

44. *(1)* It shall be lawful for any registered hackney carriage to ply for hire as a stage-carriage

Fares for stage carriages how to be determined

(2) The owner or driver of a carriage so plying for hire or hired as a stage-carriage, shall not be subject to the provisions of section 31 of this Act, but shall be entitled to demand and take for the hire of such carriage such fares as shall be agreed upon between him and the several hirers respectively

Hackney carriages plying as stage-carriages subject to provisions of Act

(3) All the other provisions of this Act shall be applicable to the case of a hackney-carriage plying as a stage-carriage so far as the same shall be applicable in each particular instance

Stands to be appointed

45. *(1)* The Registering Officer shall from time to time appoint one or more stands in Calcutta[1] for hackney-carriages registered under this Act, and may also assign for the use of such carriages as public stands, any coach-houses stables or sheds, or other suitable places

Stands to have boards affixed in front of them

(2) Every public stand so appointed or assigned shall have a board affixed in a conspicuous place in front thereof, containing a notice in the English, Urdu and Bengali languages[2] that the stand is a public stand under this Act

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[illegible] the substitution of the [illegible]

[illegible] h other languages as the [illegible] the must be read in [illegible]

[illegible] al as constituted on the [illegible] I It VI

CHAPTER VII.

Palanquins

Palanquins to be registered annually

46. (*1*) Every *palanquin* plying for hire in Calcutta[1] shall be annually registered by the Officer appointed for registering hackney-carriages at the time and in the manner hereinbefore provided with respect to the registration of hackney-carriages

Fee for registration

(*2*) Upon each registration a fee of eight annas shall be paid

Refusal to register palanquins

Provided that the Registering Officer may refuse to register any *palanquin* or may cancel the registration thereof whenever *it may appear to him to be unserviceable or unfit for* public use

Particulars of register

47. (*1*) The following particulars shall be entered in the register, namely —

(*a*) the number of the *palanquin*;

(*b*) the name and residence of the owner

Change of ownership or residence to be notified

(*2*) Every change of ownership or residence shall be notified to the Registering Officer, subject to the same provisions and penalties in default as are provided in the case of the owners of hackney-carriages

Registered number to be painted on palanquin

48. (*1*) The owner of every registered *palanquin* shall cause the registered number thereof to be painted in the English and Bengali figures on a conspicuous part thereof

Penalty for neglecting to register palanquin

(*2*) The owner of any *palanquin* plying for hire without being registered or having the number affixed thereto as aforesaid, shall be liable to a fine not exceeding ten rupees

Owner of palanquin

(*3*) The person in whose name a *palanquin* is for the time being registered shall be deemed the owner thereof for the purposes of this Act

Owner to keep list of fares inside palanquin

49. The owner of every *palanquin* shall put up and at all times keep distinctly printed, painted or marked in the English, Urdu and Bengali languages[2], in such manner and in such position as shall be directed by the Registering Officer, on the inside of such *palanquin* the amount of fare according to distance and time which may be legally demanded and taken from the hirer of such *palanquin*

Fares to be paid for palanquins

50. (*1*) The owner or person in charge of every *palanquin* shall be entitled to demand and take for the hire of such *palanquin* the fare specified in the second Schedule to this Act

Proviso

Provided that when the owner or person in charge of any *palanquin* to be paid a fare calculated according to the distance shall be required by the hirer thereof to stop such *palanquin*

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[1] As to the meaning of "Calcutta", *see* ss 3 (*1*) and 4 *ante* p 6 As to the substitution of the names of other places, *see* s 61 (2) *post* p 93

[2] In places beyond "Calcutta" as defined in s 3 (*1*) the words "or such other languages as the Local Government may by notification in the Calcutta Gazette prescribe" must be read in here—*see* s 61 (2) *post* p 93

For a list of orders made under section 49 as so amended for Bengal as constituted on the 31st March 1912 *see* the Bengal Local Statutory Rules and Orders, 1919, Vol I Pt VI

for fifteen minutes, or for any longer time, it shall be lawful for the owner or person in charge to demand and receive from the hirer so requiring him to stop, a further sum of one-fourth of the rate for the first hour, for every fifteen minutes that he shall have been so stopped.

Back fare not to be demanded.

(2) No owner or person in charge of a *palanquin* shall demand or receive over and above the said fare any sum for back hire for the return of the *palanquin* from the place at which it was discharged:

Contract for lower fares to be binding.

Provided that any contract entered into to accept a fare lower than the fare so fixed shall be binding.

Bearers of palanquins to have licenses.

51. (*1*) It shall not be lawful for any person to act as the bearer of a registered *palanquin*, unless such person shall have obtained a license from the Registering Officer in the manner hereinbefore prescribed for drivers of hackney-carriages.

Provisions relating to hackney carriages applicable to palanquins.

(2) All the provisions of this Act in any way relating to the taking out, granting, renewing, producing or using the licenses, or to the issuing, granting, wearing or using tickets granted to drivers of hackney-carriages shall be applicable in like manner to the bearers of *palanquin*.

Fee for license.

(3) For every license to act as a *palanquin* bearer granted under this Act there shall be paid a fee of eight annas.

Distance bearers bound to carry palanquins.

52. (*1*) The bearers of every *palanquin* registered under this Act shall (unless they have a reasonable excuse to be allowed by the Magistrate before whom the matter shall be brought in question) carry such *palanquin* to any place to which they shall be required by the hirer thereof to carry the same, not exceeding five miles from the place where the same shall have been hired.

Speed when hired by time.

(2) If such *palanquin* shall have been hired by time, the bearers thereof may be required to carry it at any rate not exceeding two and-a-half miles within one hour.

Fare by distance may be demanded in addition to fare by time.

(3) Whenever the bearers of such *palanquin* shall be required to carry it more than two and-a-half miles within one hour, they shall be entitled to demand in addition to the fare regulated by time in the second Schedule to this Act, for every mile or any part thereof exceeding two and-a half miles the fare regulated by distance as set forth in the said Schedule.

Provisions regarding owners and drivers of hackney carriages applicable to owners and bearers of palanquins.

(4) All and every of the provisions of this Act as to offences committed by or against the owners and drivers of hackney-carriages and the penalties in respect of the same and recovery thereof, and all the remedies by or against hirers owners or drivers of hackney-carriages and all and several of the remedies given to hirers owners and drivers of hackney-carriages, except the provisions contained in section 38, shall be applicable, so far as the same may reasonably be applied to the owners and bearers of *palanquins*.

(Chapter VIII.—By-laws.—Chapter IX.—Prosecutions.—Secs. 53-55.)

CHAPTER VIII

By-laws

Commissioners in meeting may make by-laws.

53. (*1*) The Commissioners[1] in meeting may from time to time make by-laws[2] not inconsistent with the provisions of this Act, with regard to—

(*a*) the examination and qualification of drivers, and the conditions under which they may be employed;

(*b*) the description of horses, harness, and other things to be used in hackney-carriages, the dimensions of such carriages, and the condition in which such carriages, and the horses, harness and other things used therewith shall be kept;

(*c*) the inspection of the premises on which any such carriages, horses, harness and other things are kept;

(*d*) the protection of weak, lame and sickly horses;

(*e*) the publication of a table of distances; and

generally, for carrying out the purposes of this Act.

By-laws may be repealed or altered.

(*2*) The Commissioners[1] in meeting may from time to time repeal, alter or add to any by-law made under this section.

By-laws when to take effect.

(*3*) No by-law, and no repeal or alteration of, or addition to any by-law, shall have effect until the same has been confirmed by the Local Government.

By-laws to be published in Gazette.

(*4*) Every by-law, and every repeal or alteration of, or addition to, any by-law when confirmed, shall be published in the Calcutta Gazette.

Penalty for infringement of by-laws.

54. Whoever infringes any by-law made and confirmed shall be liable to a fine not exceeding twenty rupees.

CHAPTER IX

Prosecutions

Prosecutions to be instituted before Magistrate.

55. (*1*) Every prosecution under this Act may be instituted before any Magistrate having jurisdiction who may summon the persons charged to appear at a time and place to be mentioned in the summons; and if such person do not appear, the Magistrate may, upon proof of service of the summons if no

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[1] For power to [illegible] the po[illegible] [illegible]

[2] [illegible] for the [illegible]

sufficient cause shall be shown for the non-appearance of the person charged, proceed to hear and determine the case in his absence.

(2) If such person do appear, then the procedure laid down in the Code of Criminal Procedure of 1882,[1] from section 242 to section 248 shall be followed. Procedure in case of prosecutions.

(3) All fines imposed by a Magistrate under this Act shall be levied under the provisions of sections 386, 387, 388 and 389 of the said Code.[2] Fines how to be levied.

56. (1) No person shall be liable to any fine under this Act for any offence cognizable by a Magistrate, unless the complaint respecting such offence shall have been made within three months next after the commission of such offence. Liability to fine when incurred.

(2) The omission to register any hackney-carriage or *palanquin* or to take out a license shall be deemed to be a continuing offence.

57. (1) If through any act, neglect or default on account whereof any person shall have been fined under this Act, any damage to the property of the Commissioners[3] shall have been committed by such person, he shall be liable to make good such damage as well as to pay such fine. Damage to property of Commissioners to be paid for.

(2) The amount of such damage shall be determined by the Magistrate by whom such person has been fined, and in default of payment of the amount of such damage on demand, the same may be levied in the same manner as a fine. Amount of damage to be determined by Magistrate.

58. In any case in which a Magistrate is satisfied that a complainant had no reasonable ground for instituting a prosecution, it shall be lawful for such Magistrate to direct the complainant to pay to the accused such compensation not exceeding fifty rupees as he thinks fit, and the sum so awarded shall be recoverable as if it were a fine. Compensation for groundless prosecution.

CHAPTER X

MISCELLANEOUS

59. (1) The driver of every hackney-carriage and the bearers of every *palanquin* within the limits of this Act wherein any property shall be left by any person shall, within Property left in carriage or *palanquin* to be deposited in police station.

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[1] Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure 18[illegible]
[illegible] to be made to sections [illegible] to 248 of that

twenty four hours carry such property if not sooner claimed by the owner thereof to the nearest police station and shall there deposit it with the Inspector or other officer on duty and demand a receipt for it duly signed by the officer taking charge of the same

Penalty for neglecting to do so

(2) Any such driver or bearer making default herein shall be liable to a fine not exceeding fifty rupees and in default of payment of fine to imprisonment for a period not exceeding one month

Police officer to enter particulars in book and grant receipt

(3) The said officer shall forthwith enter in a book to be kept for that purpose—

(*a*) the description of such property

(*b*) the name and address of the driver or bearer who shall bring such property

(*c*) the day and hour on which it shall be brought

(*d*) the name and address of the owner of the hackney carriage or *palanquin* in which the property shall have been left and the registered number of such carriage or *palanquin* and shall give the person a receipt for the same

Property to be returned to owner

(4) The property so entered shall be returned to the person who shall prove to the satisfaction of the Commissioner of Police that the same belonged to him such person previously paying all expenses incurred together with such reasonable sum to the driver or bearers who brought the same as the said Commissioner shall award

When such property may be sold and how proceeds may be applied

Provided always that if such property shall not be claimed by and proved to belong to some one within one year after the same shall have been deposited the said Commissioner shall cause such property to be sold or otherwise disposed of and the proceeds after deducting the expenses together with a reasonable sum to the driver or bearers shall be applied in the same manner as fees and penalties received under this Act

Fees and fines how to be dealt with

60. All fees and fines levied under this Act shall be credited in the first instance to a fund to be called the Hackney-carriage Fund' which shall be employed in carrying out the purposes of this Act

and in the event of one or more municipalities being included in Calcutta by virtue of a notification published under section 1 then such fund shall yearly be divided between the Calcutta Municipality and such other municipality or municipalities in such proportion as the Local Government may determine each municipality employing the sum so appropriated to it to carrying out the purposes of this Act

Appointment of officers when Act extended beyond Calcutta.

61. (*1*) Whenever this Act shall be extended to any other town or place under section 1, the Local Government may appoint[1] persons, either by name or by official designation, to perform the duties imposed, and exercise the powers conferred, by this Act on the Commissioners and the Chairman of the Commissioners.

Modifications in Act when extended beyond Calcutta.

(*2*) And in each town or place to which this Act may be extended, for the word "Calcutta" in sections 5, 45 and 46 shall be read the name of such town or place, and after the word "languages" in sections 32, sub-section (*1*), 45, sub-section (*2*) and 49 shall be read "or such other languages as the Local Government may by notification in the Calcutta Gazette prescribe," and for the words "11 of the Calcutta 2 of Municipal Consolidation Act, 1888," in section 5, sub-section 3 of (*3*), shall be read the words "46 of the Bengal Municipal Act, 1884."

[1] *For lists of orders issued under section 61 (1) for Bengal as constituted on the 31st March, 1912 see* the Bengal Local Statutory Rules and Orders, 1912 Vol I Pt VI and for further orders for the present Presidency of Fort William in Bengal *see* Calcutta Gazette 1912 Pt IB p 906, *ibid*, 1913 Pt IB pp 109 182 245 and *ibid* 1914 Pt IB pp 190, 308.

(*First and Second Schedules*)

FIRST SCHEDULE

(*Referred to in section 31*)

RATES AND FARES TO BE PAID FOR HACKNEY CARRIAGES

Description of carriage	FARE BY DISTANCE		FARE BY TIME					
	For any distance within and not exceeding one mile	For any distance exceeding one mile	For any time within and not exceeding one hour	For every hour or part of an hour beyond one hour		For half a day of five hours	For a whole day of nine hours	For every hour or part of an hour after the ninth hour
First class	8 annas	At the rate of 8 annas for every mile and for any part of a mile over and above any number of miles completed	1 rupee	8 annas			5 rupees	8 annas
Second class	6 annas	At the rate of 4 annas for every mile and for any part of a mile over and above any number of miles completed	12 annas	8 annas		2 rupees	3 rupees and 8 annas	8 annas
				For the second hour and for the third hour or for any part of either	For every hour or part of an hour beyond the third hour			
Third	3 annas	At the rate of 3 annas for every mile and for any part of a mile over and above any number of miles completed	6 annas	4 annas	3 annas		2 rupees	3 annas

The above fares to be paid according to time unless at the commencement of the hiring the hirer expresses his intention of paying according to distance. In the case of a second class carriage the hirer cannot avail himself of the half day or whole day rate unless at the time of hiring he engages the carriage for the half day or whole day as the case may be.

SECOND SCHEDULE

(*Referred to in section 50*)

RATES AND FARES TO BE PAID FOR *Palanquins*

FARE BY DISTANCE		FARE BY TIME			
For any distance within and not exceeding one mile	For any distance exceeding one mile	For any time within and not exceeding one hour	For every hour or part of an hour beyond one hour	For half a day or five hours	For a whole day consisting of nine hours
3 annas	At the rate of 3 annas for every mile and for any part of a mile over and above any number of miles completed	6 annas	3 annas	1 rupee	1 rupee and 8 annas

The above fares to be paid according to distance or time at the option of the hirer, to be expressed at the commencement of the hiring; if not otherwise expressed, the fare to be paid according to time.

of 1891.]

APPENDIX

List of places in Bengal to which the Calcutta Hackney-carriage Act, 1891 (Ben. Act 2 of 1891) has been extended under section 1 thereof or in which the said Act is in force by virtue of s. 2 (?) thereof.

1	2
DISTRICT	Places
Backerganj	Barisal Municipality
Bankura	Bankura Municipality Provincial road between Bankura and Raniganj
Birbhum	Roadway leading from the Ahmedpur road to the site selected for a Hackney carriage stand within the Suri Railway station yard Suri Municipality and the Railway feeder roads connecting it with Sainthia and Ahmedpur
Bogra	Bogra Municipality
Burdwan	Asansol Municipality Burdwan Municipality Kalna Municipality Raniganj Municipality
Chittagong	Agrabad road from Municipal boundary at Tiger pass to Pahartali Railway station Chittagong Municipality Pahartali road from Municipal boundary at Tiger pass to jetties Strand road from Municipal boundary to the new salt *golas*
Dacca	Dacca Municipality Narayanganj Municipality
Dinajpur	Dinajpur Municipality
Faridpur	Faridpur Municipality
Hooghly	Baidyabati Municipality Bhadreswar Municipality Hooghly Chinsura Municipality Serampur Municipality Uttarpara Municipality
Jessore	Jessore Municipality Kotchandpur Municipality
Khulna	Khulna Municipality Satkhira Municipality
Midnapur	Midnapur Municipality
Murshidabad	Azimganj Municipality Berhampur Municipality Murshidabad Municipality

(First and Second Schedules)

FIRST SCHEDULE

(Referred to in section 31)

RATES AND FARES TO BE PAID FOR HACKNEY CARRIAGES

Description of carriage	FARE BY DISTANCE: For any distance within and not exceeding one mile	FARE BY DISTANCE: For any distance exceeding one mile	FARE BY TIME: For any time within and not exceeding one hour	FARE BY TIME: For every hour or part of an hour beyond one hour (Third class: For the second and for the third hour or for any part of either)	FARE BY TIME: (Third class: For every hour or part of an hour beyond the third hour)	FARE BY TIME: For half a day or five hours	FARE BY TIME: For a whole day consisting of nine hours	FARE BY TIME: For every hour or part of an hour after nine hours
First class	8 annas.	At the rate of 6 annas for every mile and for any part of a mile over and above any number of miles completed	1 rupee	8 annas			[illegible] rupees.	8 annas
Second	6 annas	At the rate of 4 annas for every mile and for any part of a mile over and above any number of miles completed	12 annas	6 annas		2 rupees.	3 rupees and 8 annas	6 annas
Third	3 annas.	At the rate of 2 annas for every mile and for any part of a mile over and above any number of miles completed.	6 annas.	4 annas	3 annas		2 rupees.	3 annas

The above fares to be paid according to time unless at the commencement of the hiring the hirer expresses his intention of paying according to distance. In the case of a second class carriage the hirer cannot avail himself of the half day or whole day rate unless at the time of hiring he engages the carriage for the half day or whole day as the case may be.

SECOND SCHEDULE

(Referred to in section 50)

RATES AND FARES TO BE PAID FOR *Palanquins*

FARE BY DISTANCE: For any distance within and not exceeding one mile	FARE BY DISTANCE: For any distance exceeding one mile	FARE BY TIME: For any time within and not exceeding one hour	FARE BY TIME: For every hour or part of an hour beyond one hour	FARE BY TIME: For half a day or five hours.	FARE BY TIME: For a whole day consisting of nine hours.
3 annas	At the rate of 3 annas for every mile and for any part of a mile over and above any number of miles completed.	6 annas	3 annas	1 rupee	1 rupee and 8 annas.

The above fares to be paid according to distance or time at the option of the hirer to be expressed at the commencement of the hiring. If not otherwise expressed the fare to be paid according to time.

of 1891.]

APPENDIX

List of places in Bengal to which the Calcutta Hackney-carriage Act, 1891 (Ben. Act 2 of 1891), has been extended under s. 1 thereof or in which the said Act is in force by virtue of s. 2 (2) thereof.

1	2
DISTRICT	Places
Backerganj .	Barisal Municipality
Bankura .	Bankura Municipality Provincial road between Bankura and Raniganj
Birbhum	Roadway leading from the Ahmedpur road to the site selected for a Hackney carriage stand within the Suri Railway station yard Suri Municipality and the Railway feeder roads connecting it with Sainthia and Ahmedpur
Bogra	Bogra Municipality
Burdwan	Asansol Municipality Burdwan Municipality Kalna Municipality Raniganj Municipality
Chittagong	Agrabad road from Municipal boundary at Tiger pass to Pahartali Railway station Chittagong Municipality Pahartali road from Municipal boundary at Tiger pass to the jetties Strand road from Municipal boundary to the new salt *golas*
Dacca	Dacca Municipality Narayanganj Municipality
Dinajpur .	Dinajpur Municipality
Faridpur .	Faridpur Municipality
Hooghly .	Baidyabati Municipality Bhadreswar Municipality Hooghly Chinsura Municipality Serampur Municipality Uttarpara Municipality
Jessore .	Jessore Municipality Kotchandpur Municipality
Khulna	Khulna Municipality Satkhira Municipality
Midnapur ..	Midnapur Municipality
Murshidabad ...	Azimganj Municipality. Berhampur Municipality Murshidabad Municipality.

APPENDIX—*contd*

1	2
DISTRICT	PLACE
Mymensingh .	Jamalpur Municipality Kishoreganj Municipality Muktagacha Municipality Nasirabad Municipality Tangail Municipality
Nadia	Road from Krishnagar to Swarupganj Road from Santipur to Ranaghat Railway station Roads from Krishnagar to Bagula and from Krishnagar to Santipur up to the limit of the Santipur Municipality Krishnagar Municipality Nadia Municipality Ranaghat Municipality Santipur Municipality
Pabna	Pabna Municipality
Rajshahi	Nator Municipality Rampur Boalia Municipality
Rangpur	Rangpur Municipality
Tippera	Comilla Municipality
24 Parganas	Barasat Municipality Barrackpur Cantonment Barrackpur (North) Municipality Barrackpur (South) Municipality Baruipur Municipality Budge Budge Municipality Halisahar Municipality Jaynagar Municipality Naihati Municipality Panihati Municipality Rajpur Municipality Sonarpur feeder road (portion of the road lying between the Sonarpur Railway station and the limits of the Rajpur Municipality) Titagar Municipality

BENGAL ACT 1 OF 1892

[THE BENGAL VILLAGE CHAUKIDARI (AMENDMENT) ACT 1892]

CONTENTS

APPENDIX—*concld.*

1	2
DISTRICT	Places
Mymensingh	Jamalpur Municipality Kishoreganj Municipality Muktagacha Municipality Nasirabad Municipality Tangail Municipality
Nadia	Road from Krishnagar to Swarupganj Road from Santipur to Ranaghat Railway station Roads from Krishnagar to Bagula and from Krishnagar to Santipur up to the limit of the Santipur Municipality Krishnagar Municipality Nadia Municipality Ranaghat Municipality Santipur Municipality
Pabna	Pabna Municipality
Rajshahi	Nator Municipality Rampur Boalia Municipality
Rangpur	Rangpur Municipality
Tippera	Comilla Municipality
24 Parganas	Barasat Municipality Barrackpur Cantonment Barrackpur (North) Municipality Barrackpur (South) Municipality Baruipur Municipality Budge Budge Municipality Halisahar Municipality Jaynagar Municipality Naihati Municipality Panihati Municipality Rajpur Municipality Sonarpur feeder road (portion of the road lying between the Sonarpur Railway station and the limits of the Rajpur Municipality.) Titagar Municipality

BENGAL ACT 1 OF 1892

[THE BENGAL VILLAGE CHAUKIDARI (AMENDMENT) ACT, 1892.]

(19th October, 1892.)

An Act to further amend the Village Chaukidari Act, 1870.[1]

Whereas it is expedient to further amend the Village Chaukidari Act, 1870[2] Preamble

It is enacted as follows —

1. This Act shall be read with, and taken as part of, Bengal Act 6 of 1870,[2] as amended by Bengal Act 1 of 1871[3] and Bengal Act 1 of 1886[3], and it shall extend to all districts in which the said Act so amended is now or may be hereafter in force. Construction and extent

2. (1) *(Repeal of definition of "Magistrate" in Ben Act 6 of 1870, s 1) Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

(2) Except as is otherwise provided in this Act, for the words "Magistrate of the District" and for the word "Magistrate," so often as they occur respectively, in the Village Chaukidari Act, 1870[2] as amended by Bengal Act 1 of 1871[3] and Bengal Act 1 of 1886,[3] the words "District Magistrate" shall be substituted. District Magistrate substituted for Magistrate of the District and Magistrate

(3) In section 64, the words "and Magistrates" shall be omitted, and for the words "Magistrates of Districts" the words "District Magistrates" shall be substituted.

3. For section 3 * * * * the following shall be substituted — New section substituted for section 3

3. [Printed in Vol II of this Code.]

4. After section 3 the following section shall be inserted — New section inserted after section 3

3A. [Printed in Vol II of this Code.]

5. For section 4 the following shall be substituted — New section substituted for section 4

4. [Printed in Vol II of this Code.]

6. *(Partial repeal of section 5) Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

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[1] SHORT TITLE —This short title was given by the Repealing and Amending Act, 1903 (1 of 1903) Sch II—see Vol I of this Code. That Act is now known as the Amending Act, 1903—vide Act 10 of 1914 Sch II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 18[illegible] Pt IV, p 1; for Report of Select Committee, see ibid page 21; and for Proceedings in Council see ibid Supplement pp 768, 1154, 1373, 1488 and 1710.

[illegible] and taken as part of the Village Chaukidari Ac[illegible] force—see s 1.

Chittagong Hill tracts

[illegible] 86," were repealed by

(*Secs 7-19*)

New section substituted for section 11

7. For section 11 the following shall be substituted —

11 [Printed in Vol II of this Code]

New section substituted for section 12

8. For section 12 the following shall be substituted —

12 [Printed in Vol II of this Code]

New section substituted for section 13

9. For section 13 the following shall be substituted —

13 [Printed in Vol II of this Code]

New section substituted for section 14

10. For section 14 the following shall be substituted —

14 [Printed in Vol II of this Code]

New section substituted for section 35

11. For section 35 the following shall be substituted —

35 [Printed in Vol II of this Code]

12. (*Repeal of sections 36 and 37*) *Rep by the Repealing and Amending Act 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

New section substituted for section 39

13. For section 39 the following shall be substituted —

39 [Printed in Vol II of this Code]

New section substituted for section 42

14. For section 42 the following shall be substituted —

42 [Printed in Vol II of this Code.]

Amendment of section 43

15. In section 43, for the words "or person as the Magistrate shall appoint," the words "as the Local Government may by rules made under this Act prescribe or direct," shall be substituted

Amendment of section 44

16. In section 44 for the words "as the Magistrate may appoint" the words "as the Local Government may prescribe or direct" shall be substituted

New section substituted for section 46A

17. For section 46A the following shall be substituted —

46A [Printed in Vol II of this Code]

New section substituted for section 62

18. For section 62 the following shall be substituted —

62 [Printed in Vol II of this Code]

New Schedule substituted for Schedule B

19. For Schedule B the following shall be substituted —

Sch B [Printed in Vol II of this Code]

BENGAL ACT I OF 1893

(The Licensed Warehouse and Fire-brigade Act, 1893)

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SECTION.

CHAPTER V

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CHAPTER VI

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CHAPTER VII

MISCELLANEOUS

BENGAL ACT 1 OF 1893

(The Licensed Warehouse and Fire-brigade Act, 1893).[1]

(28th June, 1893.)

An Act for the licensing of Warehouses and the maintenance of a Fire-Brigade.

Whereas it is expedient to make provision for the licensing of warehouses and the maintenance of a Fire-Brigade; Preamble

It is hereby enacted as follows —

CHAPTER I.

Preliminary

1. (*1*) This Act may be called the Licensed Warehouse and Fire-Brigade Act, 1893 Title and application

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[1] For Statement of Objects and Reasons, see Calcutta Gazette, 1892, ... roceedings ... pplement, ... n I may be ... Act—see ... see the ... II of this Code

For power to prohibit the use of inflammable materials for buildings in provincial municipalities, see the Bengal Municipal Act, 1884 (Ben Act 3 of 1884) ss 236, 270 (5), in Vol II of this Code

... this Code

For penalty for lighting fire, letting-off fire works etc., in public places—

in Calcutta see the Calcutta Police Act, 1866 (Ben Act 4 of 1866) s 66, cl (11), in ... 866 (Ben Act 2 of ... (A), 22, 78, in the ... in the General Acts, ... the General Acts, ... nland Steam vessels ... substances, see the ... p 319

CHAPTER IV

FUNDS

CHAPTER V

FIRE BRIGADE

CHAPTER VI

FIRE WORKS ETC

CHAPTER VII

MISCELLANEOUS

BENGAL ACT 1 OF 1893

(THE LICENSED WAREHOUSE AND FIRE-BRIGADE ACT, 1893).[1]

(28th June, 1893.)

An Act for the licensing of Warehouses and the maintenance of a Fire-Brigade.

Whereas it is expedient to make provision for the licensing of warehouses and the maintenance of a Fire-Brigade; — Preamble

It is hereby enacted as follows.—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Licensed Warehouse and Fire-Brigade Act, 1893. — Title and application.

---

[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons, *see* Calcutta Gazette, 1892, Pt IV, p 3, for Report of Select Committee, *see ibid*, 1893, Pt IV, p 2, and for proceedings [illegible] 1488 and 2160, *ibid*, 1893 Supplement, [illegible]

[illegible] and Howrah Municipalities, and may be [illegible] Calcutta or Howrah—*see* s 1 (2)

[illegible] with and taken as part of this Act—*see* [illegible]

[illegible] les in provincial municipalities *see* the [illegible] 6) (xiv), 319A, 319B, in Vol II of this Code

For power to prohibit the use of inflammable materials for buildings in provincial municipalities, *see* the Bengal Municipal Act, 1884 (Ben Act 3 of 1884), ss 236, 270 (5), in Vol II of this Code

[illegible] en Act 3 of 1884), [illegible] ipal Act, 1909 (Ben [illegible] n Act 3 of 1899), [illegible] 90), *post*, p 569 [illegible] materials, *see* the [illegible] his Code; and the [illegible], pp 372 and 503 [illegible], in provincial muni- [illegible] 2 (az), in Vol II of this Code

For penalty for lighting fire, letting-off fire works, etc., in public places—

in Calcutta *see* the Calcutta Police Act, 1866 (Ben Act 4 of 1866) s 66, cl (*11*), in Vol II of this Code

in the Suburbs of Calcutta, *see* the Calcutta Suburban Police Act, 1866 (Ben Act 2 of 1866) s 40, cl (*10*), in Vol II of this Code

As to the prevention and extinction of fire—

[illegible] (*b*), (*c*), 31 (*4*), 32, 78, in the [illegible] s 16, 28, 32, in the General Acts, [illegible] s 21 (25), in the General Acts, [illegible] e, *see* the Inland Steam-vessels [illegible], p 480 [illegible] combustible substances, *see* the [illegible] 1-67, Ed 1909, p 319

(Chapter I—Preliminary—Secs 2, 3)

(2) It applies to Calcutta, as defined by the Calcutta Municipal Consolidation Act, 1888[1], and to such portions of the Suburbs thereof as are for the time being subject to the operation of Bengal Act 2 of 1866[2]; also to the municipality of Howrah, and to any other municipality in the neighbourhood of Calcutta or Howrah to which its provisions may be extended by an order[3] of the Local Government to be published in the Calcutta Gazette — Ben 1888

(3) (*Commencement*) *Repealed by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II.*

Repeal — **2.** (*1*) Act[4] 4 of 1883 is hereby repealed

Saving clause — (*2*) But all rules, orders, declarations, financial arrangements and appointments made under the said Act and which are now in force, shall be deemed to have been made under this Act, so far as they are not inconsistent with the provisions thereof

Definitions — **3.** In this Act, unless there is something repugnant in the subject or context,—

(*1*) "*bustee* land" means land which the owner lets out for the building of huts, in such manner that the tenant of the land is the owner of the hut

and "hut" includes any structure erected on such land, whether roofed with tiles or otherwise, and whether constructed with bricks, earth or other materials

(*2*) "cotton" means loose raw cotton

(*3*) "jute" means raw jute, either loose or in drums, and loose jute-cuttings and rejections

(*4*) "Magistrate" means and includes a Presidency Magistrate and a Magistrate of the first class

(*5*) "person" includes an undivided Hindu family,[5] a firm or company or association of individuals whether incorporated or not·

(*6*) "the Commissioner of Police" means the officer vested with the administration of police in the town of Calcutta under the Calcutta Police Act, 1866[6], and any Act amending the same — Ben 1866

(*7*) "the Commissioners" mean, in respect of Calcutta, the Corporation of Calcutta, and in respect of Howrah and the other municipalities to which this Act applies or may hereafter be extended, the Municipal Commissioners of each of the municipalities concerned

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[1] Ben Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act 1899 (Ben Act 3 of 1899) and this reference should now be construed as a reference to the latter Act (post p 219)—see the Bengal General Clauses Act 1899 (Ben Act 1 of 1899) s 10, post, [illegible]

[illegible] 7) of section 3 thereof

[illegible] ol II of this Code

[illegible] 97 M, dated the 11th April 1912

(8) "warehouse" means any building or place, used for the storing, pressing, or keeping of jute, cotton, resin, varnish, pitch, tar, hay, straw, rags, tallow, wood or other inflammable substance or thing [1] for the time being subject to the operation of this Act

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CHAPTER II

LICENSED WAREHOUSES

4. [2] No building or place shall be used as a warehouse, unless the owner or occupier thereof shall have previously obtained a license from the Commissioners for such use under this Act

Warehouse not to be used till licensed

5. The owner or occupier of any building or place, for which there [3] [was in existence on the thirty-first day of March, 1893, or on the date of the commencement of this Act] a license granted under the Jute Warehouse and Fire-Brigade Act of 1872 or 1879, or the Licensed Warehouse and Fire-Brigade Act of 1883 [4] shall, upon application in writing to the Chairman of the Commissioners, be entitled to obtain a license from the Commissioners therefor as a warehouse under this Act, subject to the payment to the Commissioners of such annual fee as is hereinafter provided

License of previously licensed building or place

6. Any person proposing to use any building or place as a warehouse within the area to which this Act applies or may hereafter be extended, and who, at the commencement of this Act, does not hold such license under any of the said aforementioned previous Acts, shall, with his application for a license therefor, send to the Chairman of the Commissioners a plan in duplicate of such building or place prepared on a scale of 8 feet to the inch, and showing—

License of new warehouse

(a) the boundaries of such building or place;
(b) the position of the engines and furnaces used or proposed to be used in the warehouse;
(c) the space, if any, which has been reserved for the loading and unloading of carts thereat:

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and thereupon it shall be within the discretion of the Chairman of the Commissioners to grant a license from the Commissioners therefor as a warehouse under this Act, subject to the payment to the Commissioners of such annual fee as is hereinafter provided, or to refuse a license for the same.

Provided that when a license is refused, the reason for such refusal shall be recorded in writing.

Period for disposal of application for license.

7. Every application for a license under the last preceding section shall be disposed of within thirty days from the date of its being received by the Chairman of the Commissioners, and if not disposed of within that period, the applicant shall not be liable to any penalties under this Act for the use, after the expiration of the said period of thirty days, of the building or place as a warehouse in respect of which such application shall have been made, so long as such application is not finally refused by an order in writing under the hand of the Chairman of the Commissioners setting forth the grounds for such refusal.

Term and conditions of license.

8. Licenses under section 6 of this Act may be granted either permanently or for such term of years as the Chairman of the Commissioners shall think fit, and shall be subject to the following conditions, namely:—

(*1*) that the warehouse shall at all times be open to the inspection of an officer appointed by the Commissioner of Police. Such officer shall be a member of the Fire-Brigade, but shall not be a member of any Police Force.

(*2*) that the annual fee imposed in respect thereof be paid [1][in advance].

Special Committee may exercise powers of Chairman.

9. (*1*) With the consent of the Chairman of the Commissioners, any Special Committee of the Commissioners, not less than three or more than five in number whom the Commissioners in meeting shall in that behalf appoint, may exercise all or any of the powers and discretion under this Act vested in the Chairman of the Commissioners.

(2) The proceedings of such Committee shall not be submitted to the Commissioners in meeting or be subject to revision by them.

Annual fee of license.

10. The annual fee payable in respect of any license shall not exceed ten *per centum per annum* on the annual value of the warehouse as it is assessed to the payment of the municipal taxes, less ten *per centum* on the outlay incurred in respect of the means and appliances, therein or appertaining thereto, for preventing or extinguishing fire.

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[1] These words in square brackets in s. 8 (2) were substituted for the words "as in that case made and provided" by the Licensed Warehouse and Fire Brigade Amendment Act, 18[illegible] (Ben. Act I of 18[illegible]), s. 3, p. II, p. 4.

Provided that the annual fee payable by any owner or occupier in respect of any license shall not exceed seven hundred and fifty rupees and that the estimated total annual amount to be derived from such fees shall not exceed fifty rupees *per centum* of the amount required to meet the cost of the fire-brigade, as shown in the budget mentioned in section 26 of this Act

Provided also that the owner or occupier of adjacent warehouses and the godowns, yards or compounds auxiliary to such warehouses shall not be bound to take out more than one license in respect of such warehouses, godowns, yards and compounds

11. Whenever and so often as a change in the occupation of any warehouse occurs, the person entering into occupation of the same shall, within two weeks of his so entering into occupation, give notice in writing to the Chairman of the Commissioners of such change of occupation, and shall thereupon pay to the Commissioners a fee of five rupees, and his name shall accordingly be substituted in the license in respect of such warehouse for the name of the last occupier

Change in occupation of warehouse to be notified

12. (*1*) Whenever the Chairman of the Commissioners receives credible information that any of the conditions, to which the license of any warehouse shall be subject, has been broken by the holder thereof, he may apply in writing, setting forth the substance of such information, to a Magistrate for the issue of a summons upon the holder of the license to show cause why such license should not be cancelled or suspended, and may also apply to such Magistrate to suspend in the meantime such license pending the hearing of the case

Chairman may apply to Magistrate to suspend license of warehouse

(*2*) The Magistrate shall not make an order suspending such license unless he is satisfied that it is necessary to prevent or obviate immediate danger or injury of a serious kind

(*3*) The summons issued under this section shall be served upon the said holder of the license named therein in the manner provided in the Code of Criminal Procedure, 1882,[1] for the service of summons

13. The Magistrate, before whom the case instituted under the last preceding section is brought on for disposal may, if after taking evidence he be satisfied that there exist reasonable and proper grounds for cancelling or suspending the license, cancel such license, or may order the same for such time as he may think fit, to be suspended, and may impose such conditions as to the reversal of such order of cancelment or suspension as may be consistent with the provisions of this Act for the grant of a license for a warehouse

Magistrate may cancel or suspend license

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[1] Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898), and this reference shall now be taken to be made to that Code—*see* s. 3 (*1*) thereof in the General Acts 18 ‑03 Ed 1909 p 40

CHAPTER III

PENALTIES

Penalty for not taking out license.

14. Any person who, without taking out a license, uses any building or place as a warehouse shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for each day during which he may so use or continue to use such warehouse.

Penalty for using warehouse after refusal, etc., of license.

15. Any person who uses any warehouse in respect of which a license has been refused, or after the license in respect thereof shall have been cancelled, or during the time for which such license shall have been suspended, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred rupees, and to a further penalty not exceeding fifty rupees for every day during which any such warehouse may be so used as aforesaid.

Penalty for breach of conditions of license.

16. Any holder of a license who breaks any of the conditions under which a license is held in respect of any warehouse shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for any one such offence.

Penalty for neglecting to notify change in occupation of warehouse.

17. If, and so often as there be a change in the occupation of any warehouse, the person entering into occupation fail to give the notice and to pay the fee required by section 11 of this Act, such person shall be liable, on conviction before a Magistrate, to a penalty not exceeding ten rupees for each day during which he may so use or continue to use such warehouse.

Penalty for giving false information to Chairman respecting license.

18. Any person who gives false information to the Chairman of the Commissioners with the object of inducing him to take action under section 12 of this Act shall, on conviction before a Magistrate, be liable to a penalty not exceeding fifty rupees.

Penalty for preparing, etc., inflammable substance on roof of building.

19. Any owner or occupier of a warehouse who shall prepare or dry, or cause to be prepared or dried, any inflammable substance or thing, for the time being subject to the operation of this Act, on the top or roof of any building constituting or forming part of such warehouse shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for any one such offence.

Penalty for using as residence any warehouse used for pressing jute or cotton.

20. Any person who shall use as a residence any portion of a warehouse used for the pressing or screwing of jute or cotton, if jute or cotton be then stored therein, shall be liable, on conviction before a Magistrate, to a penalty not exceeding ten rupees for each day during which he may reside therein.

(*Chapter III.—Penalties.—Chapter IV.—Funds.—Secs. 21-25.*)

21. Any person who shall bring into a warehouse, used for the pressing or screwing of jute or cotton, if jute or cotton be then stored therein or used therein, any matches or any artificial light unless duly and thoroughly protected, shall be liable, on conviction before a Magistrate, to a penalty not exceeding ten rupees for any one such offence. Penalty for using matches or artificial light in warehouse.

22. Any person who shall smoke within a warehouse used for the pressing or screwing of jute or cotton if jute or cotton be then stored therein shall be liable, on conviction before a Magistrate, to a penalty not exceeding ten rupees for any one such offence. Penalty for smoking within warehouse.

CHAPTER IV.

FUNDS.

23. The Commissioners shall pay to the Commissioner of Police half-yearly, in the months of May and November, such sums as are required to meet the cost of the fire-brigade as appear in the budget of the Commissioner of Police and in such proportion, respectively, as the Local Government shall, from time to time, prescribe. Commissioners to meet cost of fire-brigade.

24. The Commissioners shall rateably impose the annual fees payable for licenses under section 10 of this Act upon all warehouses, and shall appropriate towards the cost of the fire-brigade the amount derived from such annual fees, and all penalties and fines imposed and all rates levied under this Act. Cost of fire-brigade how to be met.

25. (*1*) The Commissioners may, for the purpose of further providing the cost of the fire-brigade, levy the following rates:— Rates may also be levied to provide cost of fire-brigade.

(*a*) a rate not exceeding two and-a-half *per centum* on the annual value, as it is assessed to the payment of municipal taxes, on any building or place used for the storage of any other inflammable substance or thing not specifically mentioned in clause (*8*) of section 3 of this Act, which the Local Government may, by a notification to be published in the Calcutta Gazette, declare to be liable for the payment of such rate:

Provided that the rate payable by any owner or occupier in respect of any building or place under this clause shall not exceed one hundred rupees;

(*b*) a rate not exceeding one-half *per centum* on the annual value, as it is assessed to the payment of municipal taxes, on all *bustee* lands with the huts, if any, upon them;

(*Chapter IV—Funds—Secs 26-28*)

(c) a general rate not exceeding one-eighth *per centum* on the annual value of all houses and lands assessed under the provisions of the Bengal Municipal Act, 1884[1], and the Calcutta Municipal Consolidation Act, 1888[2] Ben 1884 Ben 1888

(2) Any building or place in respect of which a license has been granted under this Act as a warehouse, or which has been assessed under clause (*a*), and any *bustee* land assessed under clause (*b*) shall be exempt from further assessment under clause (*c*)

Commissioner of Police to prepare annually budget or estimate of receipts and expenditure of fire brigade

26. (*1*) The Commissioner of Police shall prepare annually in or before the month of February a budget or estimate of the receipts and expenditure of the fire brigade for the year commencing on the 1st of April next ensuing, and shall distinguish in the receipts of such budget the proportionate sums to be contributed by the several municipalities to which this Act extends or shall hereafter be extended, and shall also show any balance of receipts remaining unexpended, after providing for any legitimate charge against the funds of the fire-brigade, and in like manner if there be a deficit, shall show such deficit at the close of the previous year, and such credit or debit balances shall be taken into account by the Local Government in fixing the sum to be annually contributed by the municipalities concerned under this Act

(*2*) Such budget shall be laid before the Commissioners at a meeting, and shall be forwarded by them to the Local Government with such remarks as they shall think fit to record, and it shall be within the discretion of the Local Government to pass, modify or reject the estimates of all or any sums entered in such budget

Sums to be appropriated as an asset of Fire Brigade Fund

27. Any sum standing at the credit of the Jute Warehouse Fund of the municipalities above-named * * * * *[3] shall be appropriated as an asset of the Fire-Brigade Fund under this Act

Mode of recovery of rates levied under section 25

28. The provisions of the Bengal Municipal Act, 1884[1], and the Calcutta Municipal Consolidation Act, 1888[2], relating to the recovery of rates levied under those Acts, respectively, shall, so far as they are consistent with this Act, apply to the recovery of rates levied under section 25 of this Act Ben 1884 Ben 1888

Provided that the rates levied under this Act in Calcutta shall be included with the four rates mentioned in section 101

of the Calcutta Municipal Consolidation Act 1888 is one consolidated rate[1] Be 18

Local Government to fix proportionate liability for cost of fire brigade to be borne by Commissioners

29 The Local Government may fix the proportionate liability for the cost of the fire brigade to be borne by the Commissioners of the municipalities to which this Act applies or may hereafter be extended and may from time to time alter the proportions in which the Commissioners of any or all the municipalities for the time being subject to the operation of this Act are liable for the payment of the said sum

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CHAPTER V

FIRE BRIGADE

Commissioner of Police to maintain fire brigade for municipalities

30 The Commissioner of Police shall maintain an efficient fire brigade for the municipalities or such portions thereof that are for the time being subject to the operation of this Act

Power of Local Government to make orders with respect to fire brigade

31. *(1)* The Local Government may from time to time make and when made alter or repeal such general or special orders[2] as it may think fit—

for appointing or removing any member or officer of the force

for furnishing the fire brigade with such fire engines fire escapes horses accoutrements equipments tools and implements as it may think proper

for building or providing stations or hiring places for the keeping of the force engines horses and appurtenances

for giving gratuities to persons who have given notice of fires and to those who have rendered effective service to the brigade on the occasion of fires

for the training discipline good conduct salaries and pensions of the members of the force

for the speedy attendance of such members with engines and all necessary implements on the occasion of any alarm of fire

for sending the force engines and appurtenances beyond the limits of the area to which this Act extends in order to extinguish fire in the neighbourhood of the said limits,

for imposing and summarily realizing a fine not exceeding one week's wages from any member of the brigade who may infringe these orders and

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[1] This reference should now be construed as a reference to section [illegible] of the Calcutta Municipal Act 1899 (Ben Act 3 of 1899) [illegible]

[2] For a list of orders made under section 31 see the Bengal Local Statutory Rules and Orders 191[illegible] Vol I [illegible] VI

generally, for the maintenance of the fire-brigade in a due state of efficiency

(2) Such orders shall be published in the Calcutta Gazette and shall take effect from the date of such publication

Commissioner of Police etc may exercise certain powers on occasion of a fire

32. (*1*) On the occasion of a fire, the Commissioner or Deputy Commissioner of Police, or the Chief or other Officer in charge of the fire-brigade on the spot may—

(*a*) remove or may order any member of the brigade to remove, any persons who by their presence interfere with the due operations of the brigade,

(*b*) by himself or by his men break into or through, or pull down, any premises for the purpose of putting an end to the fire, doing as little damage as possible,

(*c*) cause the mains and pipes of any district to be shut off, so as to give greater pressure of water in the place where the fire has occurred,

(*d*) call on the officer in charge of the Port Commissioners' fire-engine to render such assistance as may be possible, in the case of any fire occurring near the river bank and,

(*e*) generally take such measures as may appear necessary for the preservation of life and property

(2) The Commissioner or Deputy Commissioner of Police, or the Chief Officer on the spot in charge of the brigade, may verbally nominate and depute one or more officers of the brigade to act at a distance, and such officer or officers shall have for the time being the like powers as the Chief Officer himself possesses under this section

Police officers to aid fire brigade in execution of its duties

33. Police-officers of all grades shall be authorized to aid the fire brigade in the execution of its duties They may close any street in or near which a fire is burning, and they may, of their own motion or on the request of the Chief or other Officer of the fire brigade, remove any persons who interfere by their presence with the operations of the fire-brigade

Non liability of police officer, etc to damages

34. No officer of the police or of the fire-brigade shall be held liable to damages on account of any act done by him in the *bonâ fide* belief that such act was required in the proper execution of his duties

Chief Officer of brigade to inquire into origin of fire and to make report to Magistrate

35. (*1*) In the case of any fire occurring within the area to which this Act applies, the Chief Officer of the fire-brigade shall ascertain the facts as to the origin and cause of such fire, and shall make a report thereon to the Magistrate having jurisdiction in the place in which such fire shall have occurred; and the said Magistrate, in any case where he may see fit, shall summon witnesses and take evidence in order to the further ascertainment of such facts

(2) Copies of all reports and of all evidence recorded under section shall be furnished on application to any Fire

Assurance Company or other person interested, on payment of the fees payable for the copies of judicial proceedings.

CHAPTER VI.

FIRE-WORKS, ETC.

Penalty for letting off rockets, etc, and selling fire-works without license.

36. (*1*) Whoever within the area to which this Act applies, or to which it may hereafter be extended, shall let off rockets or send up fire-baloons without a license from the Commissioner of Police, and whoever shall sell fire-works without a license from the Commissioner of Police, for which a yearly fee not exceeding ten rupees shall be payable, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty rupees for every such offence.

(*2*) All such fees received by the Commissioner of Police shall be applied by him towards the maintenance of the fire-brigade.

Power of Commissioner of Police to withdraw or suspend license

37. The Commissioner of Police may, at his discretion, withdraw or suspend any license granted by him under the last preceding section:

Provided that a license to sell fire-works shall not be withdrawn or suspended except after thirty days' notice.

Magistrate of Howrah to exercise certain powers of Commissioner of Police

38. The powers conferred on the Commissioner of Police in respect to Calcutta and the Suburbs by the two last preceding sections, shall be exercised in the municipality of Howrah by the Magistrate of the district, or the officer in charge of the current duties of the Magistrate's office.

Penalty on householder for allowing rockets, etc, to be let off within premises without express permission.

39. In the event of any rockets being let off or fire-baloons sent up, within the precincts of any private premises or compound without the express permission in writing of the Commissioner of Police or the Magistrate or officer as aforesaid, as the case may be, the owner or occupier, or person under whose immediate control the said permises or compound is, shall be liable to a fine not exceeding fifty rupees, unless he can prove that the offence was committed without his knowledge.

CHAPTER VII.

MISCELLANEOUS.

Local Government may declare other building or place to be a warehouse

40. The Local Government may, on the recommendation of the Commissioners in meeting, declare [1] that any building or place used for the storing, or, pressing, or keeping of any inflammable substance or thing other than those specified in

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[1] For a list of orders made under section 40, *see* the Bengal Local Statutory Rules and Orders, 1912, Vol I, Pt. VI, and for further orders, *see* Calcutta Gazette, 1912, Pt. IB, pp 157, 193, and *ibid*, 1913, Pt. IB, pp 8, 33, 46; and *ibid*, 1914, Pt. IB, p. 188.

clause (8) of section 3 of this Act shall be a warehouse within the meaning of, and be subject to the operation of, this Act

Report respecting licenses for warehouses, etc to be submitted to Local Government

41. (1) The Commissioners of the several municipalities to which this Act extends shall submit a report to the Local Government once a year, at such time as the Local Government shall direct, giving a statement of account of receipts and disbursements and showing how the provisions of this Act have been carried out, and specifying the warehouses in respect of which licenses have been granted

(2) The Commissioner of Police shall make a similar report, showing the constitution, assets and the working of the fire-brigade during the year, the receipts and expenditure in respect thereof and the proceedings taken by him under sections 36 and 37 of this Act

(3) Such reports shall be forthwith published in the Calcutta Gazette

Police-officer may arrest offenders under section 36 and convey them before Magistrate

42. Any person committing any offence in respect of which a penalty is provided by section 36 of this Act may, if his name and address be unknown, be arrested by any officer of police and forthwith conveyed before a Magistrate having jurisdiction in the place in which such offence has been committed or shall be taken to the nearest police-station within the said jurisdiction in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into a recognizance with or without sureties for his appearance before a Magistrate

Time within which offenders should be conveyed before Magistrate

43. Whenever such person shall be taken to a police-station, the officer in charge of such station shall, as soon as possible but in every case within twenty-four hours, cause him to be conveyed before a Magistrate having jurisdiction in the matter

Form of license for warehouse

44. Every license granted under Chapter II of this Act shall, as far as possible, be in the form of the Schedule to this Act annexed

Act not applicable to buildings where small quantities of jute etc are deposited

45. (1) Nothing in this Act shall be deemed to apply to buildings or places wherein small quantities of jute, cotton, resin, varnish, pitch, tar, hay, straw, rags tallow, wood or other inflammable substance or thing for the time being subject to the operation of this Act are deposited

(2) The Local Government may from time to time declare, by notification[1] in the Calcutta Gazette, what quantities of jute, cotton, resin, varnish, pitch, tar, hay, straw, rags, tallow, wood or other inflammable substance or thing as aforesaid, shall be deemed to be small quantities within the meaning of the section

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[1] For a list of notifications issued under section 45 (2) see the Bengal Local Statutory Rules and Orders 1912 Vol I, Pt VI, and for further orders see Calcutta Gazette, Pt IB, p 46 and ibid 1914, Pt IB p 187

46. Sections 347 of the Calcutta Municipal Consolidation Act, 1888[1], and 261 of the Bengal Municipal Act 1884[2], are hereby repealed, in so far as they entitle the Commissioners to levy fees in respect of premises licensed as depôts for hay, straw, wood, rags, jute or other dangerously inflammable material which are licensed and used as warehouses under this Act

Repeal of sections 347 of Bengal Act 2 of 1888 and 261 of Bengal Act 3 of 1884

SCHEDULE

(Referred to in section 44)

License under Bengal Act of 18

No of 18

The Corporation of Calcutta (or the Municipal Commissioners, *as the case may be*) hereby grant unto this license under Bengal Act of , to store (or press and keep) jute (or cotton resin or other inflammable substance or thing, *as the case may be*) in building or place, No or Nos , Calcutta (or No or Nos Howrah *as the case may be*), subject to the conditions noted on the back, and they hereby acknowledge to have received the sum of Rs , being the license fee due by the said from to 189 in respect of the aforesaid premises, at the rate of Rs *per annum*

Name of owner

Name of occupier

Secretary to the Corporation
(or to the Municipal Commissioners)

The day of

[3] *(On the back of the license)*

CONDITIONS

(1) The warehouse or warehouses in respect of which this license is granted shall at all times be open to the inspection of an officer appointed by the Commissioner of Police as provided by section 8 of the Licensed Warehouses and Fire-Brigade Act, 1893

(2) The annual fee imposed in respect to this license shall be payable [4] [in advance]

[1] Ben Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act 1899 (Ben Act 3 of 1899) and the reference should now be construed as a reference to section 467 of the latter Act (*post* p. 3[illegible]3)—*see* the Bengal General Clauses Act 1899 (Ben. Act 1 of 1899) s 10 *post* p 1[illegible]0

[2] Printed in Vol II of this Code

[3] The words "*On the back of the license*" were substituted for the words "*On the back of Schedule*" by the Licensed Warehouse and Fire-Brigade Amendment Act 1891 (Ben Act 1 of 1891) s 6, *post* p [illegible]4[illegible]

[4] The words "in advance" were substituted for the words "[illegible] *for payment of license fee*)" by the Licensed Warehouse and Fire-Brigade Amendment Act 1891 (Ben Act 1 of 1891) s [illegible] *post* p [illegible]4[illegible]

BENGAL ACT 1 OF 1894

(THE LICENSED WAREHOUSE AND FIRE-BRIGADE AMENDMENT ACT, 1894) [1]

(21st March, 1894)

An Act to amend Bengal Act 1 of 1893.

Whereas it is expedient to amend the Licensed Warehouse and Fire-Brigade Act, 1893[2], Preamble

It is hereby enacted as follows —

1. This Act may be called the Licensed Warehouse and Fire-Brigade Amendment Act, 1894 It shall be read with, and taken as part of, Bengal Act 1 of 1893[2] Title

(Commencement) Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II

2. In section 5, for the words "is in existence at the commencement of this Act" the words "was in existence on the thirty-first day of March, 1893, or on the date of the commencement of this Act" shall be substituted Amendment of section 5

3. In section 8, clause *(2)*, for the words "as in that case made and provided" the words "in advance" shall be substituted Amendment of section 8

4, 5. *(Insertion of sections 10 A and 46A) Rep by the Repealing and Amending Act, 1903 (1 of 1903) now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

6. In the Schedule, for the words "*On the back of Schedule*" the words "*On the back of the license,*" and at the end thereof, for the words "*(here state annual or other dates for payment of license fee),*" the words "in advance," shall be substituted Amendment of Schedule

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[illegible] ta Gazette 1894

[illegible] Act 1 of 1893, [illegible] aragraph of foot

BENGAL ACT 2 OF 1894

[THE CALCUTTA PORT (AMENDMENT) ACT, 1894][1]

(2nd April, 1894)

An Act to amend the Calcutta Port Act, 1890.[2]

3 of Whereas it is expedient to amend the Calcutta Port Act, 1890[2], Preamble

It is hereby enacted as follows:—

1. *(Commencement) Rep by the Repealing and Amending Act 1903 (1 of 1903), now known as the Amending Act 1903—vide Act 10 of 1914 Sch II*

2. In section 113 sub section *(1)* of the Calcutta Port Act, 1890[2] after the word 'landing' the words "by them" shall be inserted Amendment of section 113

[1] SHORT TITLE—This short title was given by the Repealing and Amending Act 1903 (1 of 1903) Sch I—see Vol I of this Code That Act is now known as the Amending Act 1903—vide Act 10 of 1914 Sch II

LEGISLATIVE PAPERS—For Proceedings in Council see Calcutta Gazette 1894 Supplement p 6[illegible]

LOCAL EXTENT—This Act extends only to the Port of Calcutta

[2] Printed in Vol II of this Code

BENGAL ACT 3 OF 1894

(THE CALCUTTA TRAMWAYS ACT, 1894)[1]

(2nd May, 1894)

An Act to give effect to an agreement made between the Corporation of Calcutta and the Calcutta Tramways Company, Limited.

Preamble

Whereas it is expedient to sanction and give effect to a memorandum of agreement made the second day of September, 1893, between the Corporation of Calcutta of the one part, and the Calcutta Tramways Company, Limited, of the other part a copy whereof is set forth in the Schedule to this Act, and whereas without the authority of the Legislature the said memorandum of agreement would be of no effect

It is hereby enacted as follows —

Short title

1. This Act may be called the Calcutta Tramways Act, 1894

(Commencement) Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II.

The agreement declared valid

2. The memorandum of agreement, a copy whereof is set forth in the Schedule of this Act, is hereby authorized, sanctioned and declared valid and binding upon the Corporation of Calcutta and upon the Calcutta Tramways Company, Limited, and its assignees

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SCHEDULE.

(Referred to in section 2)

MEMORANDUM OF AGREEMENT[2] made this second day of September, 1893, BETWEEN THE CORPORATION OF CALCUTTA incorporated under Act 2 of 1888[3] of the Lieutenant-Governor of Bengal in Council hereinafter called "the Corporation" of the one part and THE CALCUTTA TRAMWAYS COMPANY, LIMITED, a Company incorporated under the English Companies Acts having its Registered Office in England hereinafter called 'the

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Gazette, 1894 Pt
Act 1880 (Ben
1880) Schedule
Act 1900
899 (Ben
Act 3 of 1899), post, p 219

(*Schedule*)

Company of the other part WHEREAS the Corporation are the successors of the Corporation of the Town of Calcutta the parties of the first part to the annexed articles of agreement dated the 2nd day of October 1879 and the Company is the assignee of the rights and liabilities under the said articles of agreement of Dillwyn Parrish Alfred Parrish and Robinson Souttar the parties thereto of the other part AND WHEREAS under and by virtue of the 17th Clause of the said articles of agreement the present rent payable by the Company to the Corporation is calculated at the rate of Rs 3 250 *per annum* per mile of double line and Rs 2 250 *per annum* per mile of single line AND WHEREAS the said articles of agreement do not contain any express provision prohibiting the Company after the opening of any tramway from discontinuing the working of such tramway AND WHEREAS the parties hereto have deemed it expedient and have mutually agreed subject to the sanction and authorization of their said agreement by an Act of the Bengal Legislature that the said articles of agreement should be varied or modified to the extent and in the manner hereinafter appearing NOW THESE PRESENTS WITNESS that subject to these presents being sanctioned and authorized by an Act of the Lieutenant Governor of Bengal in Council to be hereafter passed for the purpose and in consideration of the said mutual agreement and of the covenants hereinafter contained and on the part of the Corporation and of the Company respectively to be observed and performed the Corporation do hereby covenant with the Company and its assigns and the Company for itself and its assigns doth hereby covenant with the Corporation in manner following that is to say —

1 Subject as next hereinafter provided the rent payable by the Company to the Corporation from the 1st January 1894 to the 31st December 1900 being the end of the 21st year referred to in the said 17th clause of the said articles of agreement shall be calculated and paid at the present rate namely at the rate of Rs 3 250 *per annum* per mile of double line and Rs 2 250 *per anum* per mile of single line anything in the said articles of agreement to the contrary notwithstanding Provided nevertheless that a remission of fifteen thousand rupees a year shall be granted for five years with effect from 1894 subject to the condition that the dividends declared by the Company do not exceed three and a half *per cent per annum* during that period

2 The Company shall not during the period from 1st January 1894 to 31st December 1900 without the previous sanction of the Corporation discontinue the working of any of its tramways which now or hereafter may be opened for traffic

BENGAL ACT 4 OF 1894

[The Bengal Municipal (Amendment) Act, 1894]

CONTENTS

of 1894.]

BENGAL ACT 4 OF 1894

[THE BENGAL MUNICIPAL (AMENDMENT) ACT 1894] [1]

(15th August, 1894)

An Act to amend the Bengal Municipal Act, 1884.[2]

Whereas it is expedient to amend Bengal Act 3 of 1884[2],

It is hereby enacted as follows —

1. This Act shall be read with, and taken as part of, Bengal Act 3 of 1884[2], and — Construction

(*Commencement*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903) now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

2. (*1*) In section 2, after the words ' commenced under this Act the following shall be added, namely — Amendment of section 2

[Printed in Vol II of this Code]

(*2*) In the same section, for the fourth paragraph the following shall be substituted —

[Printed in Vol II of this Code]

3. In section 6, after the definition contained in clause (*14*), the following definition shall be inserted — New definition added to section 6

14 A [Printed in Vol II of this Code]

4. For section 9 the following sections shall be substituted — New sections substituted for section 9

9, 9A, 9B [Printed in Vol II of this Code]

5. (*Repeal of sections 11 and 12*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II.*

6. In section 14, in the second paragraph, after the word "appointed" the words "either by name or by official designation" shall be added — Amendment of section 14

7. (*1*) In section 15, after the word ' election,' at the end of the first sentence, the words "and the authority who shall decide disputes thereunder" shall be inserted * * *[3] — Addition to section 15

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[1] SHORT TITLE —This short title was given by the Repealing and Amending Act 1903 (1 of 1903) Sch I—*see* Vol I of this Code That Act is now known as the Amending Act 1903—*vide* Act 10 of 1914 Sch II.

LEGISLATIVE PAPERS —For Statement of Objects and Reasons *see* Calcutta Gazette 189[illegible] Pt [illegible] p 13 and [illegible] 1893 Supple- [illegible] Ben Act 3 of [illegible] ittagong Hill [illegible] nt) Act 1896

(*Secs 8 20*)

(2) At the end of the same section the following shall be added namely —

[Printed in Vol II of this Code]

8 In section 17 in the first paragraph after the words by the Local Government the words either by name or by official designation shall be added

9 (*Repeal of section 18*) *Rep by the Repealing and Amending Act 1903 (1 of 1903) now known as the Amending Act 1903—vide Act 10 of 1914 Sch II*

10 For section 20 the following shall be substituted namely —

20 [Printed in Vol II of this Code]

11 For section 22 the following shall be substituted —

22 [Printed in Vol II of this Code]

12 For section 23 the following shall be substituted —

23 [Printed in Vol II of this Code]

13 In section 24 in the second paragraph before the word Every the words Except as is otherwise provided in this Act shall be inserted

14 After section 25 the following section shall be inserted —

25A [Printed in Vol II of this Code]

15 In section 26 for the words next subsequent appointment or election not being an appointment or election under the next succeeding section the words first meeting of the body of Commissioners newly appointed and elected at which a quorum shall be present and any Chairman elected under section twenty three or twenty seven shall be competent to discharge the duties of his office after his election and pending the orders of the Local Government approving of his election shall be substituted

16 After section 26 the following section shall be inserted —

26A [Printed in Vol II of this Code]

17. After section 26A the following section shall be inserted —

26B [Printed in Vol II of this Code]

18 In section 27 after the words term of office the words and letter or shall avail himself of leave granted under section twenty six B shall be inserted and after word death the words or absence on leave shall be inserted also at the end of the section the words or during his absence on leave as the case may be shall be added

19 After section 27 the following section shall be inserted —

27A [Printed in Vol II of this Code]

20 In section 28 at the end thereof the following shall be added —

[Printed in Vol II of this Code]

(Secs 21-32)

21. After section 29 the following section shall be inserted.— New section inserted after section 29

29 A [Printed in Vol II of this Code]

22. In section 30 in the first line after the word "roads" the words "including the soil and all" shall be inserted, and in the second and third paragraphs of the same section after the words "from the operation of this Act" the words "or of any specified section of this Act" shall be inserted. Amendment of section 30

23. After section 37 the following sections shall be inserted — New sections inserted after section 37

37 A to 37 M [Printed in Vol II of this Code]

24. To section 38 the following paragraph shall be added — Addition to section 38

[Printed in Vol II of this Code]

25. In section 46, after the word "Engineer" the word "or" shall be omitted, and after the words "Health Officer" the words "or Assessor" shall be inserted Amendment of section 46

26. In section 57, in the first paragraph, the words "by himself or through others" shall be omitted and for the words "made with the Commissioners" the words "of any kind whatsoever to which the Commissioners are a party or shall hold any office of profit under them" shall be substituted, after the words "such share or interest" the words "or shall hold such office," shall be inserted, and after the word "rupees" the words "Provided that" shall be inserted Amendment of section 57

27. For section 58 the following shall be substituted — New section substituted for section 58

58 [Printed in Vol II of this Code]

28. In section 59 in clause (*a*), after the words "section twenty-three" the words "or twenty-seven" shall be inserted Amendment of section 59

29. After section 66 the following section shall be inserted — New section inserted after section 66

66A. [Printed in Vol II of this Code]

30. (*1*) In section 68, in the first line before the words "The Commissioners" the words "Except as is otherwise provided in this Act" shall be inserted Amendment of section 68

(*2*) In clause (*c*) of the same section, the word "and" shall be omitted, and after the word "treasury" the words "and towards the salary of any special officer who may be appointed under section eighty-two" shall be inserted

(*3*) In the proviso to clause (*c*) of the same section, after the word and letter "clause (*c*)" the words "otherwise than as the salary of a special officer appointed under section eighty-two" shall be inserted

31. *(Amendment of section 69) Rep by the Bengal Municipal (Amendment) Act, 1896 (Ben Act 2 of 1896)*

32. In section 76, the words "or sanction it after making such alterations therein as may seem to him fit" shall be omitted, and after the word "Division" and before the w "Provided" the following shall be inserted.— Amendment of section 76

[Printed in Vol II of this Code]

(Secs. 33-42.)

New section substituted for section 82

33. For section 82 the following shall be substituted —

82. [Printed in Vol II of this Code]

Amendment of section 85

34. In section 85, for the words "but not" the word "or" shall be substituted, in clause (*b*) the word "all" shall be omitted, after the words "the [1] [municipalities] of" and before the word "Dacca" the words "Howrah, [*Patna*]" shall be inserted, and the following proviso shall be added —

[Printed in Vol II of this Code]

Amendment of section 86

35. In section 86, in clause (*d*), for the word "six" the words "seven and-a-half," and for the word "five" the word "six" shall be substituted

Of the Tax on Persons

Amendment of section 87

36. In section 87, in the last paragraph, the words "of arable lands or" shall be omitted, and at the end thereof, the words "or in respect of the occupation of any public burial or burning ground registered under section two hundred and fifty-four" shall be inserted.

Amendment of section 89

37. In section 89, for the word "is" after the word "which" the words "contains any building" shall be substituted, for the words "and used for the purposes of a public building" the words "* * * [2] or of a local authority" shall be substituted, and at the end thereof the words "* * * [3] or the local authority concerned" shall be inserted

Of the Rate on Holdings

Amendment of section 97

38. In section 97, for the word "three" the word "five" shall be substituted

New section inserted after section 97

39. After section 97 the following section shall be inserted —

97A [Printed in Vol II of this Code]

Addition to section 98

40. To section 98 the following paragraph shall be added —

[Printed in Vol II of this Code]

Amendment of section 99

41. In section 99, after the words "authorized by them" the words "in writing" shall be inserted, and the following proviso shall be added —

[Printed in Vol. II of this Code]

Amendment of section 101

42. In section 101, in the second paragraph, after the words "Provided that" the words "except in the Darjeeling Municipality" shall be inserted

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[1] This word "municipalities", in s 31, was substituted for the word "municipality" by the Repealing and Amending Act, 1903 (1 of 1903), Sch II—*see* Vol I of this Code

[2] The words "of a Railway Administration" were repealed by Ben Act 6 of 1894, and are omitted

[3] The words "or the Railway Administration" were repealed by Ben Act 6 of 1894, and are omitted

of 1894.]

(Secs 43-57)

43. Immediately before section 112 the following section shall be inserted — New section inserted before section 112

111A [Printed in Vol II of this Code]

44. To section 113, the following paragraph shall be added — Addition to section 113

[Printed in Vol II of this Code]

45. In section 114, for the word 'Chairman" the words "Commissioners at a meeting" shall be substituted, and after the word "after" the words 'taking such evidence and" shall be inserted Amendment of section 114

46. *(Amendment of section 116) Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

47. In section 121, for the last paragraph, the following shall be substituted — Amendment of section 121

[Printed in Vol II of this Code]

48. To section 125 the following paragraph shall be added — Addition to section 125

[Printed in Vol II of this Code]

49. In section 127, for the words "goods or chattels" the words 'movable property' shall be substituted, for the word "personal' wherever the same occurs, the word 'movable' shall be substituted, and for the word 'whatsoever' the words "exercising jurisdiction within the territories administered by the Lieutenant Governor of Bengal" shall be substituted Amendment of section 127

50. After section 141 the following section shall be inserted — New section inserted after section 141

141A [Printed in Vol II of this Code]

51. *(Omission from section 142) Rep by the Repealing and Amending Act, 1903 (1 of 1903) now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

52. After section 147 the following section shall be inserted — New section inserted after section 147

147A [Printed in Vol II of this Code]

53. In section 186, after the word 'required" the words "by them" shall be inserted Amendment of section 186

54. In section 187, after the word "remove" and before the word "offensive" the words "sewage and" shall be inserted Amendment of section 187

55. In section 199, after the word "convenient' the word "wells" shall be inserted, and for the last paragraph the following shall be substituted — Amendment of section 199

[Printed in Vol II of this Code]

56. After section 199 the following section shall be inserted — New section inserted after section 199

199A [Printed in Vol II of this Code]

57. For section 200 the following shall be substituted — New section substituted for section 200

200 [Printed in Vol II of this Code]

(*Secs 33-42*)

New section substituted for section 82

33. For section 82 the following shall be substituted —

82 [Printed in Vol II of this Code]

Amendment of section 85

34. In section 85, for the words "but not" the word "or" shall be substituted, in clause (*b*) the word "all" shall be omitted after the words "the [1] [municipalities] of" and before the word "Dacca" the words "Howrah, [*Patna*]" shall be inserted, and the following proviso shall be added —

[Printed in Vol II of this Code]

Amendment of section 86

35. In section 86, in clause (*d*), for the word "six" the words "seven and-a-half," and for the word "five" the word "six" shall be substituted

Of the Tax on Persons

Amendment of section 87

36. In section 87, in the last paragraph, the words "of arable lands or" shall be omitted, and at the end thereof, the words "or in respect of the occupation of any public burial or burning ground registered under section two hundred and fifty-four" shall be inserted

Amendment of section 89

37. In section 89, for the word "is" after the word "which" the words "contains any building" shall be substituted, for the words "and used for the purposes of a public building" the words "* * *[2] or of a local authority" shall be substituted, and at the end thereof the words "* * *[3] or the *local authority concerned*" shall be inserted

Of the Rate on Holdings

Amendment of section 97

38. In section 97, for the word "three" the word "five" shall be substituted

New section inserted after section 97

39. *After section 97 the following section shall be inserted* —

97A [Printed in Vol II of this Code]

Addition to section 98

40. To section 98 the following paragraph shall be added —

[Printed in Vol II of this *Code*]

Amendment of section 99

41. In section 99, after the words "authorized by them" the words "in writing" shall be inserted, and the following proviso shall be added —

[Printed in *Vol* II of this Code]

Amendment of section 101

42. In section 101, in the second paragraph, after the words "Provided that" the words "except in the Darjeeling Municipality" shall be inserted.

[1] This word "municipalities", in s 34 was substituted for the word "municipality" by the Repealing and Amending Act 1903 (1 of 1903), Sch II—*see Vol I of this Code*

[2] The words "of a Railway Administration" were repealed by Ben Act 6 of 1894, and are omitted

[3] The words "or the Railway Administration" were repealed by Ben Act 6 of 1894, and are omitted

(*Secs 74-86*)

74. (*1*) In section 261, after the words "as a shop for the sale of meat" the words "as a place for the storage of rags or bones or both," shall be inserted — Amendment of section 261

(*2*) For the last paragraph of the same section, the following shall be substituted —

[Printed in Vol II of this Code]

75. To section 262 the following proviso shall be added — Addition of proviso to section 262

[Printed in Vol II of this Code]

76. After section 262 the following section shall be inserted — New section inserted after section 262

262A [Printed in Vol II of this Code]

77. (*Amendment of section 263*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903) now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

78. In section 270, after clause (*4*), the following shall be added — Amendment of section 270

(*5*) [Printed in Vol II of this Code]

79. In section 271, after the word "sections" the words "two hundred and twenty four" shall be inserted, after the words 'two hundred and twenty-five' the words 'two hundred and twenty-seven" shall be inserted and for the words "or two hundred and thirty-one" the words "two hundred and thirty-one or two hundred and thirty eight" shall be substituted Amendment of section 271

80. In section 273, in clause (*1*), before the words "or two hundred and forty-one' the words 'two hundred and thirty-eight" be inserted, and in clause (*2*) the following shall be added — Amendment of section 273

[Printed in Vol II of this Code]

81. For section 279 the following shall be substituted — New section substituted for section 279

279 [Printed in Vol II of this Code]

82. For section 290 the following shall be substituted — New section substituted for section 290

290 [Printed in Vol II of this Code]

83. (*Omission from section 294*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

84. In section 307, after the words "maintaining the water-works" the words 'in the payment of such a proportionate share of the cost of collection and of general supervision as the Commissioners in meeting may from time to time direct' shall be inserted Amendment of section 307

85. After section 318 the following section shall be inserted — New section inserted after section 318

318 [Printed in Vol II of this Code]

The Cleansing of Private Privies and Cess-pools

86. In section 320, the words 'public and' shall be omitted and for the word "latrines" the words "privies and cess-pools" shall be substituted Amendment of section 320

(*Secs 87-99*)

Amendment of section 321

87. In section 321, in the first paragraph, after the word "holdings" the words "containing dwelling-houses" shall be inserted

New section substituted for section 322

88. For section 322 the following section shall be substituted —

322 [Printed in Vol II of this Code]

89. (*Repeal of sections 327 and 328*) *Rep by the Repealing and Amending Act 1903 (1 of 1903) now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

New section inserted after section 334

90. After section 334 the following section shall be inserted —

334A [Printed in Vol II of this Code]

Amendment of section 339

91. In section 339, after the word "Commissioners" the words "shall as regards markets lawfully established at the time of the extension of this Part to the municipality, and in all other cases shall be inserted

New sections inserted after section 349

92 After section 349 the following sections shall be inserted —

PART XIA —*Extinction and Prevention of fire*

349A, 349B [Printed in Vol II of this Code]

Amendment of section 350

93. In section 350, for the words "giving effect to the objects of this Act" the following shall be substituted —

(*a*), (*b*) (*c*) to (*f*) [Printed in Vol II of this Code]

New section inserted after section 350

94. After section 350 the following section shall be inserted —

350A [Printed in Vol II of this Code]

Amendment of section 351

95. In section 351, the last paragraph shall be omitted, and at the end thereof the following paragraph shall be added —

[Printed in Vol II of this Code]

New section inserted after section 351

96. After section 351 the following section shall be inserted —

351A [Printed in Vol II of this Code]

Amendment of section 353

97. In section 353, for the word 'three', each time it occurs, the word 'six' shall be substituted

Addition to section 365

98. In section 365, after the word "Act" the words "or any by-law made in pursuance thereof" shall be inserted, and at the end thereof the following words shall be added —

[Printed in Vol II of this Code]

Addition to Schedule V

99. In the Fifth Schedule, after the words and figures —

	Rs	A
"For every 4-wheeled carriage drawn by one horse or a pair of ponies under thirteen hands .	3	0"

The words and figures following shall be inserted —

"For every 4 wheeled carriage drawn by one pony under thirteen hands ..	2	8"

BENGAL ACT 2 OF 1895

[THE CALCUTTA AND SUBURBAN POLICE (AMENDMENT) ACT, 1895.][1]

(29th May, 1895.)

An Act to further amend the Suburban Police Act, 1866,[2] and the Calcutta Police Act, 1866.[2]

Whereas it is expedient to further amend Bengal Act 2 of 1866[2] (*an Act to provide for the better regulation of the Police within the Suburbs of the town of Calcutta*), and the Calcutta Police Act, 1866[2], Preamble

It is enacted as follows:—

1. (*Commencement.*) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

2. After section 41 of Bengal Act 2 of 1866, as section 41A, and after section 68A of the Calcutta Police Act, 1866, as section 68B, the following section shall be inserted:— New section to follow section 41 of Bengal Act 2 of 1866 and section 68A of Bengal Act 4 of 1866

[Printed in Vol. II of this Code.]

3, 4. (*Amendment of section 43 of Bengal Act 2 of 1866 and section 72 of Bengal Act 4 of 1866.*) *Rep. by the Calcutta and Suburban Police (Amendment) Act 1910 (Ben. Act 3 of 1910.)*

5. After section 43 of Bengal Act 2 of 1866, as section 43A, and after section 72 of the Calcutta Police Act, 1866, as section 72A, the following section shall be inserted:— New section to follow section 43 of Bengal Act 2 of 1866 and section 72 of Bengal Act 4 of 1866

[Printed in Vol. II of this Code.]

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[1] SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 189[illegible], Pt. IV, p. [illegible]; and for Proceedings in Council, see ibid., 1895, Supplement, pp. 148, 263, 516 and 574.

LOCAL EXTENT.—Sections 2 and 5 of this Act extend to the town and suburbs of Calcutta.

[2] Printed in Vol. II of this Code.

BENGAL ACT 3 OF 1895

(The Land Records Maintenance Act 1895)

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BENGAL ACT 3 OF 1895

(THE LAND RECORDS MAINTENANCE ACT, 1895).[1]

(29th May, 1895.)

An Act to provide for the maintenance of Records of tenant-rights in Bengal[2] and for the recovery of the cost of Cadastral Surveys and Settlements.

Whereas it is expedient to provide for the maintenance of records of tenant-rights and of settlement records in Bengal,[2] and for an alternative method of recovering the cost of cadastral surveys and settlements; — Preamble

It is hereby enacted as follows: —

PART I

PRELIMINARY

1. (*1*) This Act may be called "The Land Records Maintenance Act, 1895." — Short title

(*2*) It shall come into force only in districts or parts of districts of which a field survey and record-of-rights have been made under Chapter X of the Bengal Tenancy Act, 1885[3] or under any other law for the time being in force, and to which the Local Government may, from time to time, extend it by an order[4] published in the Calcutta Gazette; — Extent

and thereupon this Act shall commence and take effect in the districts or parts of districts named in such order on the day which shall be in such order provided for the commencement thereof. — Commencement

2. (*1*) In this Act all words and expressions defined in the Bengal Tenancy Act, 1885,[3] shall have the meanings attributed to them, respectively, in that Act, — Interpretation-clause

and the word 'addition' shall have the meaning attributed to it in the Indian Registration Act, 1877.[5]

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[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons *see* Calcutta Gazette, 1895, Pt. IV, p. 4; and for Proceedings in Council *see ib.*, 1895, Supplement, pp. 119, 3[illegible], 491, 58[illegible], (5[illegible]) and 720.

[illegible]

[4] For references to orders made under section 1 (2) for Bengal as constituted on the 31st March 1912, *see* the Bengal Local Statutory Rules and Orders 1912, Vol. I, Pt. VI.

[5] [illegible] Indian Registration Act, 1908 (16 of [illegible] to clause 2 (*1*) of section 2 of the [illegible] 0—*see* the General Clauses Act, 1897.

(2) By the term "record of rights" shall be understood the settlement record of tenant rights called the *Khatian* or such new editions of such record as may be prepared under rules made under this Act, or such other corresponding record of tenant rights as may be declared by the Board of Revenue[1] to form the record of rights for any district or part of a district. A record of rights includes entries duly made in a Register of Mutations.

PART II.

Registration of Mutations.

Registrars of Mutations. **3.** The Sub-Registrars appointed under the Indian Registration Act, 1877,[2] shall be Registrars of Mutations under this Act. 3 of 1877.

Registers. **4.** The Registrar of Mutations shall keep such registers as shall from time to time be prescribed by the Local Government, including for every village within the limits of the sub-district a Register of Mutations in which there shall be recorded changes affecting the record of rights of that village and containing such particulars as the Board of Revenue[1] may from time to time, with the sanction of the Local Government, prescribe.

Landlords' statements. **5.** *(1)* Whenever the Local Government shall issue a notification in the Calcutta Gazette to that effect, every landlord shall, within the period prescribed in the notification, file in the office of the Registrar of Mutations within the sub-district in which his tenants' land is situated a statement in a form to be prescribed by the Local Government, showing truly to the best of his knowledge and belief the changes, if any, which have taken place in his tenants' rights by reason of transfer or succession since the record-of-rights was prepared, or since the last statement was filed.

(2) The Collector of the district shall cause such notification to be published by affixing a copy thereof in some conspicuous place in the office of such Collector, in every Civil Court, in every police-station and in the office of every Sub-divisional Officer within the district, and in any other manner which the Local Government may from time to time direct.

Notice of transfer or succession to be given to Registrar of Mutations. **6.** Every tenure-holder, *raiyat* at fixed rates and occupancy *raiyat* who transfers his tenure or holding, or any part thereof, and every person claiming to be in possession of any tenure or holding as a tenure-holder, *raiyat* at fixed rates or occupancy

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[1] [illegible] are the Board of [illegible]

[2] [illegible] tration Act, 190[illegible] (16 of [illegible] reference should now be [illegible] the General Clauses Act, 1897 (10 of 1897), s. 8, in the General Acts [illegible] p. 5[illegible]

raiyat in consequence of a transfer or of intestate or testamentary succession, shall, within four months from the date upon which he gave or took possession, as the case may be, give notice of the fact to the Registrar of Mutations within whose sub-district the whole or some portion of the land to which the notice relates is situate, at his office

Provided that a notice under this section is receivable although the prescribed period has elapsed

Provided further that when any person has duly given notice under this section, all other persons are released from the obligation of giving notice in respect of the same transfer or succession

Provided further that when an instrument effecting a transfer of tenant-right has been registered under the provisions of the Indian Registration Act 1877[1], all persons are released from the obligation of giving notice under this section in respect of the same transfer

7. The notice shall contain — The contents of the notice

(*a*) in the case of a transfer, the names of the transferor and the transferee or, in the case of a succession, the name of the deceased and his successor,

(*b*) a specification of the nature of the interest transferred, or acquired,

(*c*) the survey number of the lands as entered in the record-of rights, and

(*d*) such further particulars as the Local Government may, from time to time, prescribe

8. (*1*) The Registrar of Mutations shall, on receipt of a notice under section 6, whether given within the prescribed period or not, from a transferor or transferee, ascertain if both the transferor and the transferee, or in the case of the death of either party since the transfer, if the one party and the representative of the other party admit the transfer, or in the case of the death of both parties if their respective representatives, admit the transfer, and if both transferor or transferee or their respective representatives admit the transfer, he shall, after satisfying himself as to the identity of the persons appearing before him, cause the following particulars to be endorsed on the notice (that is to say) — Duty of Registrar on receipt of notice from transferor or transferee

(*a*) the signature and addition of every person admitting the transfer; and if such transfer has been admitted by the representative or agent of any person, the signature and addition of such representative or agent,

[1] Act 3 of 1877 has been repealed and re-enacted by the Indian Registration Act 1908 (16 of 1908), printed in the General Acts, 1898-09, Ed. 1909, p. 560, and this reference shall now be construed as a reference to the latter Act—*see* the General Clauses Act, 1897 (10 of 1897), s. 8, in the General Acts, 1887-97, Ed. 1909, p. 579

(*b*) any payment of money or delivery of goods made in the presence of the Registrar of Mutations in reference to the transfer, and any admission of receipt of consideration, in whole or in part made in his presence in reference to such transfer,

and shall affix the date and his signature to these endorsements,

and shall register the transfer in the Register of Mutations in such manner as the Local Government shall from time to time by rule prescribe.

(*2*) If necessary, the Registrar of Mutations may issue a summons for the attendance of either or both the transferor and transferee, or their respective representatives, either simultaneously or at different times, at his office;

Provided that, in lieu of issuing a summons, he shall either himself go and examine, or issue a commission for the examination of any person who is—

(*a*) exempt by law from personal appearance in Court,

(*b*) unable by reason of bodily infirmity, without risk or serious inconvenience to attend at the office, or

(*c*) in jail under Civil or Criminal process

Duty of Registrar on receipt of notice from successor

9. The Registrar of Mutations on receipt of a notice under section 6 whether within the prescribed period or not, from a person claiming by succession, shall, after satisfying himself as to the identity of such person and causing the signature and addition of such person to be endorsed on the notice by a notice affixed in a conspicuous place, and by beat of drum, in the village in which the land claimed is situated, call upon any person who desires to do so to appear before him at his office within one month from the date of the last-mentioned notice, and deny the succession, and if within that period no one appears and denies the succession, he shall endorse a statement of the fact on the notice affixing the date and his signature to the endorsements, and shall register the succession in the Register of Mutations in such manner as the Local Government shall from time to time by rule prescribe.

Appearance by agent

10. Notwithstanding anything contained in sections 8, 9 and 12 any person may attend at the office of the Registrar of Mutations by agent duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned

Powers-of-attorney

11. (*1*) For the purposes of the last preceding section, the powers-of-attorney here mentioned shall alone be recognized—

(*a*) if the principal at the time of executing the power-of-attorney resides in British India, a power-of-attorney executed before and authenticated by any Magistrate or the Registrar or Sub-Registrar appointed under

section 6 of the Indian Registration Act, 1877,[1] within whose district or sub district the principal resides

(b) if the principal at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a notary public, or any Court, Judge, Magistrate, British Consul or Vice-Consul or representative of Her Majesty or of the Government of India

Provided that the following persons shall not be required to attend at any office or Court for the purpose of executing any such power of-attorney as is mentioned in clause (a) of this section —

persons exempt by law from personal appearance in Court,
persons who by reason of bodily infirmity are unable, without risk or serious inconvenience, so to attend, and
persons who are in jail under Civil or Criminal process

(2) In every such case the officer, if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court To obtain evidence as to the voluntary nature of the execution, the officer may go to the person purporting to be the principal and examine him or issue a commission for his examination. Any power of-attorney mentioned in this section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the officer hereinbefore mentioned in that behalf

Law as to summonses and commissions

12. The law for the time being in force as to summonses, commissions and the compelling the attendance of persons summoned in suits before Civil Courts shall, *mutatis mutandis*, apply to any summons or commission issued, and any person summoned, under this Act

Reason for refusal to *register to be recorded*

13. Whenever a Registrar of Mutations, after receipt of a notice under section 6, does not register the transfer or succession in respect of which it is given, he shall make an entry of the fact and state his reasons in such manner as the Local Government may from time to time prescribe

Procedure on denial of transfer

14. If any of the persons purporting to have signed the notice, or any one mentioned therein as transferor or transferee or in the case of the death of either, if his representative denies the transfer,

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[1] Act 3 of 1877 has been repealed and re-enacted by the Indian Registration Act, 1908 (16 of 1908) printed in the General Acts 1904-09, Ed 1909 p. 560 and this reference should now be construed as a reference to section 6 of the latter Act—*see* the General Clauses Act, 1897 (10 of 1897) s 8 in the General Acts 1887 97, Ed 1909 p 579

or if any such person appears to be a minor an idiot or a lunatic or

if any person where the claim is by succession appears before the Registrar on issue of a notice under section 9 and denies the succession

the Registrar of Mutations shall refuse to register the mutation

Procedure when transferor etc. not in record of rights

15 If the name of a transferor or of a deceased person through whom succession is claimed inserted in a notice given under section 6 is not recorded in the record of rights as that of the person in possession of the land specified in the notice the Registrar of Mutations shall without registering the transfer or succession as the case may be by a notice affixed in a conspicuous place and by beat of drum in the village in which the land claimed is situated call upon any person who desires to do so to appear before him at his office within one month from the date of the last mentioned notice and deny that the alleged transferor or deceased person through whom succession is claimed was at the time of the alleged transfer in possession of the land specified in the notice

And if no person within the prescribed period so appears and denies the Registrar of Mutations shall if the other provisions of the Act are complied with record the transfer or succession the object of the notice in the Register of Mutations

Appeal against refusal to register

16. (*1*) When a Registrar of Mutations has made an order refusing to register a transfer or succession an appeal shall lie within thirty days from the date of the order against such order to the Collector of the district to whom such Registrar of Mutations is subordinate and the Collector may after taking such evidence as he thinks necessary reverse or alter such order and if the Collector directs the transfer or succession to be registered the Registrar of Mutations shall obey such order

and such registration shall take effect as if the transfer or succession had been registered when the notice was first given under section 6

(*2*) No appeal shall lie from any order of a Collector passed under this section

Registrar to give receipt for notice and if required copy of entries in register

17. The Registrar of Mutations shall give to the person giving a notice under section 6 a receipt therefor and shall upon his application grant to him free of charge a copy of the entries made in the Register of Mutations in pursuance of such notice

Registrar to allow inspection and to give certified copies of entries in Register

18 (*1*) On payment of the prescribed fees the Register of Mutations shall be open to inspection by any person applying to inspect the same and a copy of any entry therein shall be given to any person applying therefor

(*2*) Copies given under this section shall be signed and sealed by the Registrar of Mutations and shall be admissible for the purpose of proving the contents of the original entry

(*Part II.—Registration of Mutations.—Secs. 19-23.*)

19. (*1*) The Local Government shall from time to time prepare tables of fees payable— Fees to be fixed by the Local Government.

(*a*) for the registration of mutations—

(*i*) within the prescribed period,
(*ii*) after the prescribed period,

(*b*) for copies of entries in the Register of Mutations,
(*c*) for inspecting the Register of Mutations,
(*d*) for notices, processes and commissions given or issued under this Act,
(*e*) for such other matters as appear to the Local Government necessary to effect the purposes of this Act,

and may from time to time alter such tables.

(*2*) Tables of fees so payable shall be published in the Calcutta Gazette, and a copy thereof, in English and the Vernacular language of the district, shall be exposed to public view in the office of every Registrar of Mutations.

(*3*) All fees for the registration of mutations shall be payable at the time when the notice is given under section 6.

20. The fees payable to the Collector under sections 15 and 18 of the Bengal Tenancy Act, 1885,[1] may be paid to the Registrar of Mutations, when notice is given under section 6, and such payment shall be held to be payment to the Collector, and the Registrar of Mutations shall forthwith transmit all fees so paid to the Collector and such notice to the Registrar of Mutations shall be held to be a notice to the Collector under sections 15 and 18 of the Bengal Tenancy Act, 1885.[1] Fees under Tenancy Act.

21. Any non-occupancy *raiyat* or under-*raiyat*, if he thinks fit, may give any notice which a tenure-holder *raiyat* at fixed rates and occupancy *raiyat* is bound to give under section 6, and if he gives such notice, the provisions of this Act, as far as they are applicable, shall thereupon apply. Notice by non-occupancy or under-*raiyats*.

22. A Sub-Registrar, registering an instrument effecting a transfer of tenant-right, or, under the provisions of sections 64 and 65 of the Indian Registration Act, 1877,[2] receiving a memorandum of a transfer of tenant-right, shall, as Registrar of Mutations, make an entry in the Register of Mutations as if he had received a notice under section 6. Registration of instruments effecting transfer of tenant right and simultaneous registration of mutations.

23. (*1*) No person bound to give notice under section 6 shall, after the period therein mentioned, be entitled to obtain a decree for, or recover, the rent of any land the subject of the transfer or succession until he has given such notice, and if the defendant denies that the notice has been given, or if the Court thinks fit, it may require him to file a certified copy of Disability on failure to give notice.

the entry in the Register of Mutations relative to such land, or to adduce evidence to the satisfaction of the Court that the notice was duly given.

(2) No tenant bound to give notice under section 6 shall, after the period therein mentioned, in any suit in which his landlord is plaintiff and he is a defendant, be entitled to adduce evidence that he is a tenure-holder, *raiyat* at fixed rates or *raiyat* with a right of occupancy in the land held by him until he has given such notice, but the Court in which any such suit is tried shall afford the defendant sufficient time to enable him to give such notice.

Penalty for omission to give notice under section 6.

24. Whoever voluntarily or negligently omits to give, within the prescribed time, notice under section 6 shall be liable to such fine not exceeding fifty rupees, as the Collector of the district may see fit to impose.

Penalty for omission to file statement under section 5.

25. After a notification has been issued under section 5, whoever voluntarily or negligently omits to file, within the period therein specified, the required statement, shall be liable to such fine not exceeding one hundred rupees, as the Collector of the district may see fit to impose:

Provided that no person shall be fined under this or the last preceding section who at any time prior to the institution of proceedings thereunder or in the discretion of the Collector of the district at any time after such institution, has filed the statement required by section 5 or given the notice required by section 6.

Penalty for omitting to make entry or making incorrect entry in Register with intent to injure.

26. Every Registrar of Mutations and every person employed in his office for the purposes of this Act, who being charged with the duty of making any entry in the Register of Mutations voluntarily omits to make such entry, or makes any entry therein which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury as defined in the Indian Penal Code[1], to any person shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Penalty for certain other offences.

27. Whoever commits any of the following offences shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:—

Making false statements before Registrar of Mutations.

(*a*) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any Registrar of Mutations in any proceeding or inquiry under this Act;

False personation.

(*b*) falsely personates another, and in such assumed character presents any notice or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or inquiry under this Act;

[1] Printed in the General Acts, 1834-67, Ed. 1909, p. 218.

of 1895.]

(Part III.—Recovery of Expenses of a Survey and Preparation of a Record-of-Rights.—Secs. 28-31.)

(c) abets, within the meaning of the Indian Penal Code,[1] anything made punishable under this or the last preceding section. **Abetment of certain offences.**

PART III

Recovery of Expenses of a Survey and Preparation of a Record-of-Rights

Recovery of expenses of initial survey, etc.

28. It shall be lawful for the Local Government instead of proceeding under section 114 of the Bengal Tenancy Act, 1885,[2] to recover from all or any of the proprietors, landlords, tenants and rent-free owners and occupiers in any district or part of a district, either in one year or several years, and in the manner specified in the sections following, their shares of all the expenses declared by the Local Government to be recoverable from proprietors, landlords, tenants and rent-free owners and occupiers, which have been incurred in making a survey and record-of-rights and a settlement of rents under Chapter X of the Bengal Tenancy Act, 1885[2], such costs not having been incurred for the purposes of a settlement of land-revenue.

Area rate and date of recovery of expenses.

29. The Local Government may from time to time determine the total expenses which have been incurred in any district or part of a district in making a survey and record-of-rights, and the amounts (in such proportions as the Local Government may from time to time determine) which shall be paid by the proprietors, landlords, tenants and rent-free owners and occupiers, respectively, in such district or part of a district, and the date from which the expenses aforesaid shall be recovered, and may specify the rate per acre to be paid by the said proprietors, landlords, tenants and rent-free owners and occupiers.

Payment of expenses by proprietors.

30. The amount due from proprietors shall be paid together with such instalment of land-revenue as the Local Government may direct, and arrears shall be recoverable under the law[3] for the time being in force for the recovery of public demands.

Payment of expenses by tenants and rent-free owners and occupiers.

31. The amount due from tenants and rent-free owners and occupiers shall, subject to any orders passed by the Local Government under section 28, be paid by them to the Settlement

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[1] Printed in the General Acts, 1834-67, Ed. 1909, p. 248.
[2] Printed in Vol. I of this Code.
[3] *See* the Bengal Public Demands Recovery Act, 1913 (Ben. Act 3 of 1913), *post*, p. [illegible].

BENGAL ACT 4 OF 1895

[THE CALCUTTA PORT (AMENDMENT NO 1) ACT, 1895]

CONTENTS

PREAMBLE

SECTION

BENGAL ACT 4 OF 1895

[THE CALCUTTA PORT (AMENDMENT NO 1) ACT 1895] [1]

(5th June, 1895)

An Act to further amend the Calcutta Port Act, 1890.

Whereas it is expedient to further amend the Calcutta Port Act, 1890[2] — Preamble

It is hereby enacted as follows —

1. (*1*) This Act shall be read with, and taken as part of, the Calcutta Port Act, 1890[2] — Construction

(*2*) (*Commencement*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903 —vide Act 10 of 1914, Sch II*

2. In section 13, in sub-section (*2*), for the word "this" after the word "under" the words "the last preceding" shall be substituted — Amendment of section 13

3. After section 32, the following section shall be inserted — — New section 32A

32A [Printed in Vol II of this Code]

4. (*Amendment of section 35*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903) now known as the Amending Act, 1903—vide Act 10 of 1911, Sch II*

5. In section 90 after the words "by their servants" the words "or agents" shall be inserted, after the word "discharged" the following proviso shall be inserted — — Amendment of section 90

[Printed in Vol II of this Code]

and after the word "Provided" the word "further" shall be inserted

6. (*Amendment of section 104*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

7. After section 104 the following section shall be inserted — — New section 104A

104A [Printed in Vol II of this Code]

8. In section 106, after the word 'tolls," wherever the same occurs, the words 'rates charges and fees' shall be inserted, the word 'any" shall be omitted, and after the word "port" the following shall be inserted — — Amendment of section 106

[Printed in Vol II of this Code]

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[1] SHORT TITLE —This short title was given by the Repealing and Amending Act 1903 (1 of 1903) Sch I—see Vol I of this Code That Act is now known as the Amending Act 1903—vide Act 10 of 1914 Sch II

[2] [illegible] Gazette 1895

(*Secs 9-16*)

Amendment of section 108

9. In section 108, after the word "all" the words "or any portion or description of" shall be inserted

before the word "vessel" the word "sea-going" shall be inserted,

after the word "such" and before the word "tolls" the words "general or differential" shall be inserted,

after the word "three" the words and letter "one hundred and four A" shall be inserted,

for the word "to" after the word "three", the word "and" shall be substituted, and the words "both inclusive" shall be omitted,

and, at the end thereof, the following proviso shall be added —

[Printed in Vol II of this Code]

Amendment of section 109

10. In section 109, after the word 'such' the words "additional general or differential" shall be inserted

Amendment of section 113

11. In section 113, sub-section (2), after the words "any goods" the words "other than those stored in warehouses licensed under section 16 of the Sea Customs Act, 1878," shall be inserted 8 of

Amendment of section 114

12. In section 114, in sub section (1), after the words "any goods" the words "other than those stored in warehouses licensed under section 16 of the Sea Customs Act, 1878,' shall be inserted 8 of

Amendment of section 115

13. In section 115, after the words "the said goods' the words "other than those stored in warehouses licensed under section 16 of the Sea Customs Act, 1878,' shall be inserted 8 of

14. (*Amendment of section 116*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903) now known as the Amending Act 1903—vide Act 10 of 1914, Sch II*

New sections 122A 122B and 122C

15. After section 122 the following sections shall be inserted —

122A, 122B, 122C [Printed in Vol. II of this Code]

16. (*Amendment of section 126*). *Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903,—vide Act 10 of 1914, Sch II*

BENGAL ACT 6 OF 1895

[THE CALCUTTA PORT (AMENDMENT NO 2) ACT, 1895][1]

(*16th October 1895*)

An Act to further amend the Port Act, 1890'.

Whereas it is expedient to further amend the Calcutta Port Act, 1890[2] Preamble

It is hereby enacted as follows —

1. (*1*) This Act shall be read with, and taken as part of, the Calcutta Port Act, 1890[2] Construction

(*2*) (*Commencement*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903) now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

2. For section 35 of the said Act * * *[3] the following shall be substituted, namely —

35 [Printed in Vol II of this Code]

3. After section 66 the following sections shall be inserted —

66A to 66 N [Printed in Vol II of this Code.]

4. For section 105 of the said Act the following shall be substituted, namely —

105 [Printed in Vol II of this Code.]

5. For section 105 of the said Act * * *[4] the following shall be substituted, namely —

116 [Printed in Vol II of this Code]

6. For section 126 of the said Act * * *[5] the following shall be substituted, namely —

126 [Printed in Vol. II of this Code]

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[1] SHORT TITLE —This short title was given by the Repealing and Amending Act, 1903 (1 of 1903) Sch I—see Vol I of this Code That Act is now known as the Amending Act, 1903—[illegible]

see Calcutta Gazette, 18[illegible], [illegible]nent, pp 1177, 13[illegible]3 and 1144

[illegible] C) of 1895, were repealed

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BENGAL ACT 8 OF 1895

(THE BENGAL SANITARY DRAINAGE ACT, 1895)

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CHAPTER II

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SCHEDULE.

BENGAL ACT 8 OF 1895

(THE BENGAL SANITARY DRAINAGE ACT, 1895)[1]

(30th October, 1895.)

An Act to facilitate the construction of drainage works for improving the sanitary condition of local areas.

Whereas it is expedient to facilitate the construction of drainage works for improving the sanitary condition of local areas within the territories administered by the Lieutenant-Governor of Bengal[2] and to lay down a procedure therefor, other than that provided by section 37B of the Bengal Municipal Act, 1884[3],

It is enacted as follows:—

PART I.

CHAPTER I

PRELIMINARY

1. *(1)* This Act may be called the Bengal Sanitary Drainage Act, 1895. [illegible]

(2) Except as hereinafter otherwise provided,[4] it shall extend to all the territories administered by the Lieutenant-Governor of Bengal[2] which are not included within the limits of any municipality.

(3) (Commencement.) Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

2. In this Act, unless there be something repugnant in the subject or context,— [illegible]

(a) "cultivating *raiyat*" shall have the meaning attached to it in the Cess Act, 9 (B.C.) of 1880[5];

(b) "estate" shall have the meaning attached to it in the Cess Act, 9 (B.C.) of 1880[5];

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons see Calcutta [illegible]

(*c*) "holder of an estate or tenure" shall have the meaning attached to it in the Cess Act, 9 (B C) of 1880[1]

(*d*) "local area" means the portion of a district or districts within which a rate is to be levied, in order to liquidate the cost of a scheme adopted by a District Board[2]

(*e*) 'tenure' shall have the meaning attached to it in the Cess Act, 9 (B C) of 1880[1]

(*f*) "the Collector" means, except as hereinafter[3] provided[*] the officer in charge of the revenue jurisdiction of the district within which the lands, which form the subject of a scheme under this Act, are situated·

(*g*) the Commissioners" means the Drainage Commissioners under this Act

(*h*) "the Engineer" means the District Engineer or any Engineer especially appointed by the Local Government to perform the functions of an Engineer under this Act

(*i*) "tract' means the portion of a district or districts throughout which the Commissioners are authorized to exercise the functions conferred on them under this Act[4]

CHAPTER II

Appointment of the Commissioners

Appointment of the Commissioners

3. (*1*) Whenever an application is received from a District Board through the Collector and the Commissioner of the Division reporting that they believe that the sanitary condition of any tract within their jurisdiction has been deteriorated by the obstruction of drainage, whether from natural or artificial causes, the Local Government may—

(*a*) issue, if it think fit, an order[5] indicating approximately the area of the tract affected and prescribing [illegible] not less than [illegible]

(*b*) dir[illegible] than half of such number from among the members of the District or Local Board as the case may be;

(*c*) appoint the remainder of the Commissioners from among the holders of estates and tenures in the tract

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[1] Printed in Vol II of this Code

[2] [illegible]

[3] [illegible]

[4] [illegible]

[5] [illegible] constituted on the 31st [illegible] VI

affected or from among the managers on behalf of such holders.

(2) The Commissioners so created shall elect one of their number to act as Chairman.

4. (*1*) When an affected tract referred to in the last preceding section includes lands subject to the jurisdiction of more than one local authority, the Local Government, by an order made on the application of any District Board concerned, may constitute a joint Committee to be elected by all the local authorities concerned, the number to be elected by each being determined by the Local Government as far as possible in proportion to the interest of such local authority in the tract affected. Procedure when several local authorities are interested.

(*2*) The Local Government may further confer on any Committee so constituted, or on such of them as may be specified in the order, all the powers of a District Board under this Act, and such order may contain such provisions respecting the proceedings of any such Committee as may seem proper, and may provide for the payment by the local authorities represented thereby of the expenses incurred by any such Committee and for the audit of their accounts.

5. The Local Government may from time to time accept the resignation of any of the Commissioners, or may add to their number, and in the event of any Commissioner dying, retiring or ceasing to reside in the district, in which such tract is situated, the vacancy so caused shall thereupon be filled by appointment or by election, as the case may be, the conditions of the original appointment or election being in each case strictly observed: Resignation of the Commissioners.

Provided that not less than half the number of the Commissioners shall always be members of the District or Local Board, as the case may be.

PART II.

CHAPTER I.

DRAINAGE SCHEME.

6. (*1*) When the Commissioners have been appointed under section 3 or section 5, they shall, without delay, direct the Engineer to prepare a survey, plans and estimates (hereinafter called "the survey") for the restoration or improvement of the drainage of the tract found by him to be affected, and such survey shall be drawn up in accordance with rules to be framed under section 35 (*1*) (*a*). The Commissioners to direct survey, etc., and forward survey and preliminary scheme to Collector.

On the completion of the survey the Commissioners shall within a period to be fixed by the District Board which made the application (hereinafter called "District Board") forward the same to the Collector of the district within which the tract affected or the principal part of it is situated together with a report (hereinafter called "preliminary scheme") containing—

(*a*) a statement descriptive of the proposed undertaking and showing how the drainage is obstructed, with a map of the tract affected;

(*b*) an estimate of the total cost of the undertaking including the cost of any land to be acquired under section 16;

(*c*) an estimate of the annual cost of maintaining the works:

Provided that if the tract affected includes any municipal area, the estimates to be framed under clauses (*b*) and (*c*) of this section shall show separately the portion of the cost under each clause which will be incurred in respect of such municipal area:

Provided further that if one or more municipalities fall within the tract, a separate estimate shall be framed of the cost of constructing and maintaining such portion of the works as lies within the area of any such municipality.

(2) The Collector shall thereupon cause to be prepared—

(*d*) a statement showing the valuation for cess purposes of the lands included in the tract affected and the total amount of cesses actually payable on the same;

(*e*) an estimate showing the rate bearing a definite proportion to the road cess[1] payable direct to Government which would provide for the payment with interest in the course of thirty years of the amount under clause (*b*) and the capitalised value of the amount under clause (*c*) of this section, excluding the portion to be incurred in respect of the municipal area, if any.

The Collector to publish notification.

7. As soon as possible after the receipt of the survey and preliminary scheme the Collector shall publish in every village in the tract affected a notification in the language of the district calling for objections.

Such notification shall be in the form in the Schedule hereto annexed and may be published by posting the same at each post office and police station within such tract and in some

[1] The road cess is imposed under the Cess Act, 1880 (Ben. Act 9 of 1880), printed in Vol. II of the Code.

conspicuous part of each village and at the Court of the *Munsif* within whose jurisdiction such village, or any part thereof is situated.

The Commissioners to consider the survey, preliminary scheme and objections and report thereon.

8. As soon as practicable after the expiry of the period fixed by such notification, the Collector shall forward to the Commissioners the survey and preliminary scheme, together with the petitions of objection, if any, received by him and shall call upon them to consider such survey and preliminary scheme together with such objections, and within a specified time to forward such survey and preliminary scheme to the Chairman of the District Board together with their report upon the objections, if any, as well as upon the state of public feeling in regard to such survey and preliminary scheme, and their advice as to their adoption or rejection.

District Board to consider the survey and preliminary scheme.

9. On receipt of such survey and preliminary scheme, the District Board shall within one month's time proceed to take them into consideration at a meeting specially called for the purpose.

Procedure if survey and preliminary scheme are rejected.

10. If the District Board reject such survey and preliminary scheme, the cost of such survey and the salary, if any, of the Engineer directed to prepare the same shall be paid by the District Board.

Procedure if survey and preliminary scheme are adopted.

11. If, at such meeting, a majority of the members present acting on the advise of the Commissioners, or, with the approval of a majority of not less than two-thirds of such members (such meeting to consist of not less than one half of the total number of the members of the Board), acting against the advice of the Commissioners, adopt the survey and preliminary scheme, they shall revise the preliminary scheme in the following manner:—

(*i*) they shall deduct from the aggregate amount estimated under clauses (*b*) and (*c*) of section 6 the sums, if any, which have been either anticipated or promised as private subcriptions or contributed by the District Board, or provisionally promised by the Local Government,

(*ii*) they shall thereupon submit the preliminary scheme so revised, together with the survey and the report prepared by the Commissioners under section 8 to the Collector.

Procedure to be followed by the Collector.

12. The Collector shall thereupon—

(*a*) calculate the amount, which, if expressed as a rate bearing a definite proportion to the road cess[1] leviable within the tract affected, would pay off the balance

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[1]The road cess is imposed under the Cess Act, 1880 (Ben. Act 9 of 1880), printed in Vol. II of this Code.

in equal annual instalments within thirty years (such instalments being fixed), so as to provide for the payment of interest on any sums borrowed from Government or the public,

(*b*) forward such survey and preliminary scheme through the Commissioner of the Division to the Local Government for consideration

Provided that, if the instalments so fixed shall exceed the amount annually payable as road cess[1] within the tract affected, the Collector shall return such preliminary scheme to the District Board for further consideration

Scheme and local area

13. The "survey and preliminary scheme" thus adopted or modified shall be hereinafter called the "scheme," and the tract within which the new drainage rate is to be imposed shall be hereinafter called the "local area"

Powers of Local Government

14. The Local Government shall consider the scheme thus adopted or revised, together with the report of the Commissioners, and may approve, modify or reject the same, and if it approve or modify the scheme, it shall thereupon return it, so approved or modified, to the District Board through the Commissioner of the Division, with an intimation of the amount which the Local Government will contribute towards the scheme

Provided that, if the modification adds materially to the cost of the operations, the scheme thus modified shall again be laid before the District Board for their consideration

District Board may re consider scheme etc adopted by them

15. (*1*) The District Board may, with the previous consent of the Local Government, at any time re-consider the scheme adopted by them, and add to, alter or modify the same, and if any addition, alteration or modification is thereupon made by them, they shall lay before the Local Government the scheme so added to, altered or modified, and the Local Government may sanction the same or any portion thereof, and thenceforth the provisions of this Act shall apply to the scheme as ultimately sanctioned by the Local Government

(*2*) Every material addition, alteration or modification made by the Local Government or by a District Board to, or in, any scheme after the adoption thereof, shall be published in the manner provided in section 7, and the provisions of sections 8 to 12 (both inclusive) shall apply

Land required for drainage works how to be acquired

16. Any land, likely to be needed in carrying out any scheme, sanctioned by the Local Government under this Act, may be acquired under the provisions of the Land Acquisition Act, 1894,[2] or any similar Act for the time being in force for the acquisition of land for public purposes 1 of 1

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[1] The road cess is imposed under the Cess Act 1880 (Ben Act 9 of 1880) printed in Vol II of this Code

[2] Printed in the General Acts 1887 97, Ed 1909 p 363

Provided that no compensation shall be paid for land recorded as a water-course in the last revenue survey map published under section 4 of Act 9 of 1847[1] or any similar enactment for the time being in force, unless it be proved that such land has been under cultivation for a period of not less than twelve years previous to the acquisition

17. (1) All works under this Act shall be executed by the District Board, unless the Local Government order such works, or any portion of them, to be executed by more than one District Board or by an Engineer appointed in that behalf by itself.

Local Government may order execution of drainage works by an Engineer appointed by it

(2) Any person duly authorized to execute any works under this Act may himself, or by his agents and workmen, enter into or upon any lands forming part of the local area, and carry out such works thereupon as may be required

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CHAPTER II

EXPENDITURE AND APPORTIONMENT

18. All amounts paid—

What amounts should be included in cost of construction

(a) as compensation for any lands taken for the purposes of this Act,

(b) as salaries of the engineer, officers servants or establishments specially employed by the Collector, the Commissioners or the District Board for the purposes of this Act,

(c) for any surveys, plans, estimates, valuations and incidental expenses connected therewith, whether antecedent or subsequent to the adoption of the scheme,

together with all amounts expended in carrying out the purposes of this Act, shall be included in, and be deemed to constitute, the cost of construction of works

19. (1) The Engineer shall, once in every three months, until the work shall be finally completed, submit to the District Board a detailed report showing the progress of the works and the amount expended thereon up to date from the commencement of the work or from the date of the last report, and when the works are completed and the accounts closed, he shall submit to the District Board a final report showing the total cost.

Engineer to report progress and completion of works

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[1] The Bengal Alluvion and Diluvion Act 1847 It is printed in Vol I of this Code

(2) If the local area includes areas subject to the jurisdiction of more than one local authority, the proportion of such cost shall be defrayed by each local authority as far as possible in proportion to their interest in the work executed

(3) The District Board shall forward a copy of this report to the Local Government through the Commissioner of the Division with such remarks as to them shall seem fit and in the event of any local authority objecting to the proposed apportionment the Local Government shall determine the proportion to be paid by them The decision of the Local Government thereon shall be final

Amount to [illegible]

20. The total cost of construction mentioned in section 18 shall be ascertained by adding together—

(*a*) the actual amount expended,

(*b*) the interest payable on the loans under the Local Authorities Loan Act 1879[1] if any II

(*c*) the capitalized value of the estimated cost of maintenance

From this sum shall be deducted the amounts subscribed or contributed as contemplated in sections 11 and 14

The Collector to determine rate

21. On receipt of the final report mentioned in section 19 the District Board shall require the Collector within three months to determine the amount of rate which shall be collected with the road cess[2] annually payable direct to Government within the local area and shall be sufficient to provide for the payment of the cost of construction as defined in section 20 in the course of not more than thirty years excluding the portion to be incurred in respect of the municipal area if any

Rate to be published and to be paid with the road cess

22. (*1*) The rate so determined shall be published as provided in section 10 of the Cess Act 1880[3] and shall be paid together with the road cess payable by those liable to pay such cess direct to Government within the local area until such time as the period of not more than thirty years from the date of publication shall have expired or the cost of construction of the works has been liquidated Ben 1880

(*2*) All arrears of such rates shall be recoverable under the law[4] for the time being in force for the recovery of public demands

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[1] Act II of 1879 has been repealed and re-enacted by the Local Authorities Loans Act 1914 (9 of 1914) and the reference should now be construed as a reference to the latter Act—see the General Clauses Act 1897 (10 of 1897) s 8 in the General Acts 1897 97 Ed 1909 p 579

[2] The road cess is imposed under the Cess Act 1880 (Ben Act 9 of 1880) printed in Vol II of this Code

[3] Printed in Vol II of this Code

[4] See the Bengal Public Demands Recovery Act 1913 (Ben Act 3 of 1913) printed post p 789

*(Part II.—Chapter II.—Expenditure and Apportionment.—
Part III—Chapter I.—Miscellaneous.—Secs 23-26)*

Share to be recovered by estate or tenure holder

23. Any holder of an estate or tenure who shall pay to the Collector any instalment of such rate payable under the last preceding section shall be entitled to recover half the amount of the instalment so paid from the holder of a tenure or cultivating *raiyat* holding lands within the local area under such holder of an estate or tenure in the same proportion and in the same manner as he is entitled to recover road cess or public works cess, payable under the provisions of the Cess Act, 1880[1]

Amount to be recovered by tenure holder from *raiyat*

24. Any holder of a tenure, who shall pay to the holder of an estate or tenure the sum due to such holder under the last preceding section, shall be entitled to recover half the sum so paid from the cultivating *raiyats* holding lands within the local area under such holder of a tenure, in the same proportion and in the same manner, as he is entitled to recover road cess or public works cess, payable under the provisions of the Cess Act, 1880[1]

Recovery of municipal portion of cost

25. *(1)* When the local area includes a municipal area, the amount payable under section 19 shall be defrayed by the municipality

(2) In order to provide for the payment with interest of such municipal share at the rate payable to Government by the District Board within a period of not less than thirty years, the amount required may be raised by an additional rate to be added to the tax upon persons or to the rate on the annual value of holdings, as the case may be

PART III.

CHAPTER I

MISCELLANEOUS

Drainage works subject to laws relating to public embankments

26. All outlets and water-channels, natural or artificial, which shall be cleared, altered, enlarged, excavated or cut under the provisions of this Act, and the construction and maintenance of embankments and dams and works therein or connected therewith, shall be subject to the law [2] for the time being in force regulating the construction and maintenance of public embankments, rivers, channels and outlets

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this Code
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Act ~ of 1866 have

(Part III.—Chapter I.—Miscellaneous.—Secs. 27-32)

Penalty for constructing weirs, etc, obstructing public drainage

27. *(1)* Any person who, without lawful authority, erects, or causes to be erected, any weir or other obstruction in any outlet or water-channel, or cultivates the bed of a water-channel, so as to obstruct natural drainage, shall, upon conviction before a Magistrate, be liable to a penalty not exceeding two hundred rupees for every such offence

(2) It shall be in the discretion of such Magistrate to direct any such offender to remove and pay for the entire cost of the removal of any such obstruction

Lands taken and works constructed under Act to be under District Board

28. All lands which are taken under the provisions of this Act for the purpose of the construction of works therein or thereon, and all works constructed under the provisions of this Act, as well as all outlets, water-channels, embankments and dams so constructed, cleared, altered, enlarged, excavated or cut, shall be under the control and administration of the District Board

Powers of the Commissioners etc, in taking evidence

29. The Commissioners, the Collector, and the Commissioner of the Division shall have all such powers as are conferred on Civil Courts by the Code of Civil Procedure[1] for the 14 o
purpose of compelling the attendance of witnesses and the production of evidence, and for the purpose of examining witnesses in any inquiry or appeal, which they may be empowered to make or entertain under the provisions of this Act

Proceedings not to be invalidated by irregularities

30. No proceeding under this Act shall be defeated or invalidated by reason of any defect or omission in the publication or service of any notification, notice or order, unless material injury is done to any person by such defect or omission

Local Government may empower any person to act for the Collector

31. The Local Government may specially empower any person to do all such acts, to discharge all such functions, and to exercise all such powers as may be done, discharged or exercised by a Collector under this Act, and on any person being so specially empowered, such person may do all such acts, discharge all such functions, and exercise all such powers, and such person shall be deemed to be the Collector for the purposes of the scheme, in respect of which he is so specially empowered

The Collector may delegate his authority to another

32. *(1)* The Collector may, with the sanction of the Commissioner of the Division, delegate to any Deputy or Assistant Collector, the performance of any acts or the discharge of any functions which the said Collector may perform or discharge under this Act

(2) Upon such delegation, such Deputy Collector or other officer may do such acts, discharge such functions and exercise

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[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure 1908 (5 of 1908) and this reference should now be taken to be made to that Code—see s 158 thereof, in the General Acts, 1904-09, Ed 1909, p 184

of 1895.]

(Part III.—Chapter I.—Miscellaneous.—Chapter II.—Rules.—Secs. 33-35.)

such powers for the performance of the same, as the Collector may exercise under this Act

Provided that all acts done, functions discharged and powers exercised by such officer, shall be done, discharged, or exercised subject to the control and supervision of the Collector

Proceedings of the Commissioners and the Collector subject to control of Commissioner of Division

33. Notwithstanding anything hereinbefore contained, all the proceedings of the Commissioners and of the Collector under this Act shall be subject to the general control and supervision of the Commissioner of the Division, or, when the tract or local area affected comprises land situated in more than one Division, of such Commissioner as the Local Government may direct

Local Government may direct cessation of work and revision of the scheme

34. If at any time the Local Government is satisfied that the cost of any scheme of works, including the cost of maintenance, has been erroneously estimated, it may direct that the scheme be no further proceeded with, until the same has been revised

CHAPTER II

RULES

Power of Local Government to make rules and to cancel them

35. *(1)* It shall be lawful for the Local Government, from time to time, to make, and, when made, to alter or repeal, rules not inconsistent with this Act, for the purposes of—

(*a*) prescribing the forms of accounts, surveys, plans, estimates, periodical statements and reports,

(*b*) regulating the conduct of business at the meetings of the Commissioners,

(*c*) regulating the instalments by which and the mode in which sums payable under this Act shall be paid,

(*d*) regulating the carrying out and maintenance of works when one or more local authorities are concerned,

(*e*) ascertaining the capitalized value of the estimated cost of maintenance of drainage works,

(*f*) providing for professional supervision over the preparation of surveys, plans and estimates, and the execution and maintenance of drainage works,

(*g*) allotting the duties of the Collector under this Act among Collectors of different districts as may be convenient, and

(*h*) generally carrying out the purposes of this Act

(2) The Local Government shall before making altering or repealing rules under this section publish a draft of the proposed rules and alterations and a notification of the proposed repeals in three consecutive numbers of the Calcutta Gazette and shall specify a date not less than one month from the date of publication at or after which such draft and notification will be taken into consideration

(3) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to such draft and notification before the date so specified

(4) Every rule so made or altered and every repeal of any such rule under this section shall be thereafter published in the Calcutta Gazette

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SCHEDULE

(*See section 7*)

BENGAL SANITARY DRAINAGE ACT 1895

To all whom it may concern

TAKE notice that with the object of improving the sanitary condition of the country it is proposed to restore or improve the drainage in the thanas of district

Copies of the plans and estimates of the work proposed which will affect (so many) villages are now in the office of and may be inspected by any persons interested at any time between 11 A.M and 5 P.M Sundays and holidays excepted up to and including the day of

It is estimated that if the said drainage scheme is carried out a rate will be payable by the residents of the villages affected which will be equivalent to on every rupee now paid as Road Cess for a period of thirty years from the date of the completion of the works unless the District Board shall decide to collect the amount within a shorter period

Any person objecting to the execution of the said works shall submit a petition in writing duly signed to the Collector of on or before the day of

Any person who does not object in the manner and within the time mentioned shall be held to have assented to the execution of the works

Collector

BENGAL ACT I OF 1896

(THE PROTECTION OF MUHAMMADAN PILGRIMS ACT, 1896.)

CONTENTS.

SECTION

BENGAL ACT I OF 1896

(The Protection of Muhammadan Pilgrims Act, 1896)[1].

(10th June, 1896)

An Act to provide for the protection of Muhammadan Pilgrims.

Whereas it is expedient to provide for the protection of Muhammadan Pilgrims; Short title extent and commencement

It is hereby enacted as follows:—

1. *(1)* This Act may be called the Protection of Muhammadan Pilgrims Act, 1896;

(2) It extends in the first instance to Calcutta only; but the Local Government may, by notification in the Calcutta Gazette, extend it to any other place in the Province of Bengal[2]; and

(3) It shall come into force—

(a) in Calcutta, from the date on which it may be published in the Calcutta Gazette with the assent of the Governor General; and

(b) in any place to which it may be extended by notification under sub-section *(2)* of this section, from the date specified in this behalf in such notification.

2. In this Act, unless there be something repugnant in the subject or context,— Definitions

(a) "pilgrim" means a Muhammadan who is proceeding to or returning from the *Hedjaz*;

(b) "pilgrim broker" means a person who buys and re-sells, or sells on commission, or takes any reward for the purchase or sale of passage tickets, whether by sea or railway, for pilgrims;

(c) "agent" includes a person who has chartered a ship for the conveyance of pilgrims;

(d) "Calcutta" means the area for the time being included in "Calcutta" as defined in the Calcutta Municipal Consolidation Act, 1888[3], and includes the Port of Calcutta; and

(*Secs* 3-6.)

(*e*) "Commissioner of Police" means—

(*i*) as regards Calcutta, the Commissioner of Police for that town, and

(*ii*) as regards any place to which this Act may hereafter be extended, any person whom the Local Government may appoint, by name or by virtue of his office, to perform in such place the functions of the Commissioner of Police under this Act

Grant of licenses to act as pilgrim brokers

3. (*1*) The Commissioner of Police[1] shall from time to time grant licenses empowering persons to act as pilgrim brokers

(*2*) The Local Government may, from time to time, make rules[2] to regulate the grant of such licenses and to prescribe the conditions to be embodied therein

(*3*) All such rules shall be published in the Calcutta Gazette

Licenses what to specify

4. Every such license shall specify—

(*a*) the name and address of the licensee,

(*b*) the period for which the license is to be in force, and

(*c*) the conditions subject to which the license is granted.

Penalty for acting as pilgrim broker without a license or for lending license

5. Any person who without a license granted under section 3, acts as a pilgrim broker or who lends to another person a license granted to himself under that section, shall, on conviction be liable to fine which may extend to two hundred rupees for each offence

Penalty for misbehaviour of licensed pilgrim broker

6. If any licensed pilgrim broker—

(*a*) commits a breach of any of the conditions of his license or

(*b*) purchases for or sells to any pilgrim a passage-ticket by any ship to which the Native Passenger Ships Act 1887[3] applies, at any time before notice has been given by the master, owner or agent of the ship under section 7 of that Act[4] of the time at which it is proposed that the ship shall sail, or 10 of

(*c*) purchases for or sells to any pilgrim a passage-ticket by any ship unless the proposed time of sailing is printed on such ticket, or

(*d*) charges any pilgrim a sum in excess of the cost price of any passage-ticket, or of any provisions or other articles, purchased for him, or receives from him any fee or commission on account of any such ticket, or

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[1] For power to appoint a person to perform the functions of the Commissioner of Police *see* s 2 (*ii*) on this page

[2] For a reference to rules made under section 3 (2) for Bengal as constituted on the 31st March, 1912 *see* the Bengal Local Statutory Rules and Orders 1919, Vol I Pt VI

[3] *Now read* the Pilgrim Ships Act 1895—*see* s. 17 *post* p 104

[4] *Now read* section 8 of the Pilgrim Ships Act 1895—*see* s 17, *post*, p 104

(e) receives from the master, owner or agent of any ship, or from any railway-servant, any fee or commission in respect of the sale of any passage-ticket for a pilgrim, exceeding five *per centum* of the price of such ticket, or

(f) purchases for any pilgrim a passage-ticket on which there is not printed or stamped the price charged for the passage according to the class of accommodation secured, or

(g) by fraud or false representation or by any false pretence whatever, induces any person to purchase a pilgrim's passage-ticket,

he shall, on conviction, be liable to fine which may extend to two hundred rupees for each offence

Power to suspend and cancel licenses

7. The Commissioner of Police [1] may—

(a) suspend the license of any pilgrim broker pending any inquiry into any accusation against him of misconduct for which, if proved, he would be liable to fine under section 6 and

(b) cancel the license granted to any pilgrim broker who is convicted of any offence under this Act or of any other criminal offence

Appointment and duties of Protectors of Pilgrims

8. (1) The Local Government may, from time to time, appoint any persons, being Muhammadans, to be Protectors of Pilgrims for Calcutta or for any place to which this Act may hereafter be extended

(2) Every Protector of Pilgrims shall, for the purposes of this Act, be subordinate to the Commissioner of Police,[1] and shall aid the Commissioner in giving effect to the provisions of this Act, shall advise and generally assist pilgrims during their stay in the place for which the Protector is appointed, and shall exercise supervision over the proceedings of all licensed pilgrim brokers therein

Power to enter ships conveying pilgrims

9 Any Protector of Pilgrims, or any person authorized by the Commissioner of Police in this behalf shall be at liberty at all times to enter and inspect any ship advertised or offered to convey pilgrims from the Port of Calcutta or any place to which this Act may hereafter be extended

Penalty for not facilitating inspection

10. If the master or any officer of any such ship does not afford every reasonable facility for such inspection, he shall, on conviction, be liable to fine which may extend to two hundred rupees for each offence

Information to be supplied by master, owner or agent of ship conveying pilgrims

11. It shall be incumbent on the master, owner or agent of every such ship to supply the Protector of Pilgrims on demand, with full particulars as to the class, tonnage and age of the ship, the number of passage-tickets of each class to be issued

[1] For power to appoint a person to perform the functions of the Commissioner of Police, *see* s. 2 (ii), *ante*, p. 102

BENGAL ACT 2 OF 1896

[THE BENGAL MUNICIPAL (AMENDMENT) ACT, 1896][1]

(28th October, 1896)

An Act to further amend the Bengal Municipal Act, 1884.[2]

Whereas it is expedient to further amend the Bengal Municipal Act, 1884[2],

It is hereby enacted as follows :—

1. *(Commencement)* *Rep by the Repealing and Amending Act, 1903 (1 of 1903) now known as the Amending Act, 1903—vide Act 10 of 1914 Sch II*

2. The word ' section, ' as used in sections 3 to 18 both inclusive of this Act means a section of the said Bengal Municipal Act 1884[2] as amended by Bengal Act 4 of 1894[3]. Meaning of section

3. *(1)* For clauses *(1)* *(2)* and *(3)* of the first proviso to section 15 the following shall be substituted namely :— [illegible]

(i) *(ii)* *(iii)* [Printed in Vol II of this Code]

(2) In the definition of rates in the said section the word ' means ' shall be substituted for the words ' shall be deemed to include '

(3) To the said section the following shall be added, namely :—

Explanation [Printed in Vol II of this Code]

4. For section 37L the following shall be substituted, namely :— [illegible]

37L [Printed in Vol II of this Code]

5. To section 39 the following shall be added namely :— [illegible]

[Printed in Vol II of this Code]

6. *(1)* After the words ' or Vice Chairman ' in the first paragraph of section 42 the words ' or under section 39 by persons signing a requisition ' shall be inserted [illegible]

(2) For the words ' Chairman or Vice Chairman " in the last paragraph of section 42 the word ' President ' shall be substituted

7. For section 69 the following shall be substituted namely :— [illegible]

69 69A 69B [Printed in Vol II of this Code]

8. *(1)* For the words ' the last preceding section ' in section 70 the words and figures ' section 69 sub section *(1)* ' shall be substituted [illegible]

[1] SHORT TITLE —This short title was given by the Repealing and Amending Act [illegible] 1903) Sch I—see Vol I of this Code This Act is now known as the Amending Act [illegible] Act 10 of 1914 Sch II

LEGISLATIVE PAPERS For Statement of Objects and Reasons see Calcutta Gazette [illegible] Part IV [illegible] for Report of Select Committee see [illegible] Supplement [illegible]

LOCAL EXTENT —The local extent of this Act [illegible] Act 3 [illegible]

[2] [illegible] Chittagong Hill Tracts [illegible] Vol I of this Code [illegible]

(2) To the said section 70 the following shall be added namely —

[Printed in Vol II of this Code]

Amendment of sections 131 141A 142 and 147A

9. (1) For the words or habitually used and the words and habitually used in section 131 and section 142 the words or is used in the ordinary course of business and the words and is used in the ordinary course of business' shall respectively be substituted

(2) For the words habitually used in section 147A the words used in the ordinary course of business shall be substituted

(3) To section 147A the following shall be added namely —

[Printed in Vol II of this Code]

(4) (*Repeal of the words or cantonment in sections 141A and 147A*) *Rep by the Repealing and Amending Act 1903 (1 of 1903) now known as the Amending Act 1903—vide Act 10 of 1914 Sch II*

New section 141B

10 After section 141A the following shall be inserted namely —

141B [Printed in Vol II of this Code]

New section 147B

11 After the said section 147A the following shall be inserted namely —

147B [Printed in Vol II of this Code]

Amendment of section 238

12. In section 238 sub section (1) the words or without waiting for the orders of the Commissioners for six weeks from the date of his giving notice in writing under section 237 shall be inserted after the words as aforesaid'

Amendment of section 279

13. (1) After sub section (1) of section 279 the following shall be inserted namely —

(1 a) [Printed in Vol II of this Code]

(2) In sub section (2) of the said section the words or amounts shall be inserted after the word amount in the first place in which that word occurs

Further amendment of sec

14 After clause (b) of the first proviso to section 279 the following shall be inserted namely —

[Printed in Vol II of this Code]

Amendment of sec

15. In section 321 after the words dwelling houses the words or privies shall be inserted

Amendment of sec

16 For section 322 sub section (3) the following shall be substituted namely —

(3) [Printed in Vol II of this Code]

Amendment of sec

17. After clause (a) of section 350 the following shall be inserted namely —

(aa) [Printed in Vol II of this Code]

Amendment of sec 351A

18. For clause (f) of section 351A the following shall be substituted namely —

(f) [Printed in Vol II of this Code]

19 (*Repeal of portions of Bengal Act 4 of 1894*) *Rep by the Repealing and Amending Act 1903 (1 of 1903) now known as the Amending Act 1903—vide Act 10 of 1914 Sch II*

BENGAL ACT 5 OF 1897

(THE ESTATES PARTITION ACT, 1897)

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of 1897.]

BENGAL ACT 5 OF 1897

(THE ESTATES PARTITION ACT, 1897)[1]

(8th December, 1897.)

An Act to amend the law relating to the Partition of Estates.

Whereas it is expedient to amend the law relating to the partition of estates;

And whereas the sanction of the Governor General of India has been obtained, under section 5[2] of the Indian Councils Act, 1892, to the provisions contained in section 12 of this Act amending the Code of Civil Procedure[3];

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Estates Partition Act, 1897; Short title, extent and commencement

(*2*) It extends to the territories for the time being under the administration of the Lieutenant-Governor of Bengal[4], and

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Gazette [illegible] ... r Province of Bengal, see [illegible] Chittagong Hill Tracts Regula[illegible]

[illegible] the Bengal Batwara Manual

1908 [illegible] in British India as to partition [illegible] That Act [illegible] immoveable property [illegible]

[illegible] Civil Procedure (Act [illegible] of 1908), see [illegible] the General Acts [illegible] or the partition of immovable pro[illegible]

[illegible] Land revenue Settlement Regulation [illegible] settlement are entitled to claim par[illegible] of this

Code.

As to the assessment of land revenue on separated estates see the Bengal Leases and La[illegible]

[illegible]

[illegible] 1908 (5 of [illegible]

(3) It shall come into force on the day[1] on which it is first published in the Calcutta Gazette after having received the assent of the Governor General

Repeal and savings

2. (*1*) On and from that day the Estates Partition Act, 1876, shall be repealed But— Ben 1876

(*a*) this repeal shall not affect the previous operation of said Act, or anything duly done or suffered thereunder, or any fine incurred thereunder,

(*b*) where in any pending case an order under section 63 of the said Act was made before the said day, the subsequent proceedings shall, unless all the proprietors request otherwise, be carried on under the said Act, as if this Act had not been passed,

(*c*) subject to clause (*b*) of this section, all pending proceedings which have been commenced under the said Estates Partition Act, 1876, before the said day, shall be carried on under this Act, save that, where in any case the Collector has before that day directed that an application for partition be admitted, section 11 of the said Estates Partition Act, 1876, shall apply instead of clauses (*a*) and (*b*) of section 11 of this Act

(2) Any enactment or document referring to the said Estates Partition Act, 1876 or to any enactment repealed thereby, shall, so far as may be, and subject to sub section (*1*) of this section, be construed to refer to this Act or to the corresponding portion thereof

Definitions

3. In this Act, unless there be something repugnant in the subject or context,—

(*i*) [2]"Board" means the Board of Revenue for the territories for the time being under the administration of the Lieutenant-Governor,

(*ii*) "Collector" means the Collector of the district on the revenue-roll of which an estate which is under partition, or which it is proposed to bring under partition is borne, and includes—

(*a*) any officer whom the Board[2] generally vests (as it is hereby empowered to do) with the powers of a Collector under this Act, and to whom the Collector has, with the sanction of the Commissioner, delegated (as he is hereby empowered to do) any of his functions in respect of the partition of an estate, and

(*b*) any officer whom the Board[2] specially vests (as it is hereby empowered to do) with the powers of a Collector for the purposes of any partition under this Act,

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[1] i e the 8th December 189

[2] As to the present constitution and powers of the Board of Revenue, *see* the Bengal Board of Revenue Act 1913 (Ben Act 2 of 1913), *post* p 7 9

of 1897.]

(*Chapter 1.—Preliminary —Sec 3*)

(*iii*) "Commissioner" means the Commissioner of Revenue to whom the Collector engaged in making a partition is subordinate,

(*iv*) "Deputy Collector" includes any Assistant Collector, Deputy Collector or Sub-Deputy Collector whom the Collector may appoint (as he is hereby empowered to do) to effect a partition under this Act, or to conduct any of the proceedings connected with such partition,

(*v*) "proprietor" includes every person who is in possession of any estate under partition or any portion of such an estate, or of any interest in any such estate or in any part of such an estate, as owner thereof, whether or not such person is a recorded proprietor of the estate,

(*vi*) "recorded proprietor" means a person whose name is registered on the Collector's General Register of revenue-paying land as proprietor of an estate, or of any share or interest therein,

(*vii*) the words "tenure," "permanent tenure," "holding" and "tenant" have the meanings attached to them in the Bengal Tenancy Act, 1885[1],

(*viii*) "applicant" means any person who has applied to the Collector under the provisions of this Act for the separation from a parent estate of land representing the interest of such person in such estate, and for the assignment to him of such land as a separate estate liable for a demand of land-revenue distinct from that for which the parent estate is liable,

(*ix*) "estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land-revenue,

(*x*) "joint undivided estate" means an estate of which two or more persons are proprietors,

(*xi*) "parent estate" means an estate for the partition of which proceedings are in progress under this Act, or of which the partition has been effected under this Act,

(*xii*) "separate estate" means any distinct estate which is formed by the partition of a parent estate under this Act, or for the formation of which, by such partition, proceedings are in progress under this Act,

(*xiii*) "land" does not include houses or other buildings standing thereon,

(*xiv*) "rent" means whatever is lawfully payable or deliverable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant, and "rent payable in kind" means, in money, the amount which would be determined as the rent if a commutation were made under *section 40, sub-section (4)*, of the Bengal Tenancy Act, 1885[1],

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[1] Printed in Vol I of this Code

(xv) "assets," when used with reference to land, means—

(a) in the case of land held by cultivating *raiyats*—the rent payable by them,

(b) in the case of land which is occupied by a proprietor—the rent which might reasonably be expected to be payable by cultivating *raiyats* if the land were occupied by them,

(c) in the case of land held on a permanent tenure which was created by all the proprietors of the estate and which by any law for the time being in force is protected against the purchaser at a sale *for arrears* of land-revenue—the rent payable by the holder of such tenure,

(d) in the case of land held on a tenure which,

although not protected as aforesaid, is admitted by all the recorded proprietors of the estate to be permanent tenure subject only to the payment of an amount of rent fixed in perpetuity, and

is of such nature that the rent thereof is not liable to be enhanced under any circumstances by the proprietors of the estate or any person deriving his title from such proprietors,—

the rent payable by the holder of such tenure whether he be known as *talukdar*, *patnidar*, or *mukararidar* or by any other designation,

(e) in the case of unoccupied land and land forming portion of a village site—such amount, if any, as the Deputy Collector may determine with reference to all the circumstances of the case,

and includes—

(f) all profits derived out of land by proprietors from trees, rights of pasturage, forest-rights, fisheries and all other legal sources,

(xvi) 'assets,' when used with reference to an estate, means the assets of all land included in the estate;

(xvii) 'Chapter' means a Chapter of this Act, and

(xviii) "section" means a section of this Act

CHAPTER II

RIGHT TO CLAIM PARTITION.

Who entitled to claim partition

4. (1) Subject to the provisions of this Act, every recorded proprietor of a joint undivided estate who is in actual possession of the interest in respect of which he is so recorded shall be entitled to claim a partition of the said estate and the separation therefrom and assignment to him as a separate estate of land representing the interest of which he is in such possession

(*Chapter II.—Right to claim Partition.—Sec. 5.*)

(2) Any two or more of such recorded proprietors may claim that land representing the interest of all such claimants be formed into one separate estate to be held by them as a joint undivided estate; and every provision of this Act which applies to an applicant for partition shall apply to any two or more persons making any such claim.

5. (1) If the interest of any recorded proprietor who is entitled to claim partition is an undivided share in an estate held in common tenancy, he shall be entitled to have assigned to him as his separate estate, land of which the assets shall bear the same proportion to the assets of the parent estate as his undivided share in the parent estate bears to the entire parent estate. Partition according to interest.

(2) If the interest of such recorded proprietor is the proprietary right over specific *mauzas* or lands forming part of the parent estate and held by him in severalty, he shall be entitled to have assigned to him as his separate estate the said *mauzas* or lands.

(3) If the interest of such recorded proprietor consists of an undivided share held in common tenancy in specific *mauzas* or tracts forming part of the parent estate, but not extending over the whole area of the parent estate, he shall be entitled to have assigned to him as his separate estate land, situated within such specific *mauzas* or tracts of which the assets shall bear the same proportion to the assets of such specific *mauzas* or tracts as his undivided share in such specific *mauzas* or tracts bears to the entire *mauzas* or tracts:

Provided that, if the interest of such recorded proprietor consists of such an undivided share in more than one *mauza* or tract, he shall not be entitled to have land assigned to him in every such *mauza* or tract, but the Collector may assign to him as his separate estate land situated in any one or more of the said *mauzas* or tracts, subject to the condition that the assets of such land are in proportion to the aggregate of the interests which he holds in all such *mauzas* or tracts.

(4) If the interest of such recorded proprietor consists partly of land held in severalty, and partly of an undivided share either in the whole estate or in specific land held in common tenancy, he shall be entitled to have the portion of the common land falling by partition to his share added to the land held by him in severalty, and the estate thus formed shall be assigned to him as his separate estate, so that the assets shall bear the same proportion to the assets of the whole estate as his interest in all the land and undivided shares held by him bears to the aggregate interests of all the proprietors.

(5) If the interest of such recorded proprietor is of more than one of the kinds specified in the preceding sub-sections, land shall be assigned to him as far as possible in accordance with the principles therein laid down.

Separation of land held in common between the proprietors of two or more estates when the estates are not under partition

6. Whenever any land is held in common between the proprietors of two or more estates not being under partition, any one or more of such proprietors may, without applying for partition of their several estates *inter se*, apply for separation of the land held by them in common, and for the allotment of the proper shares of such land to each of their separate estates, the land-revenue of those estates remaining unaltered, and such application shall be dealt with as far as may be in accordance with the provisions of this Act

Partition of lands under Act where a partition has been made by private arrangement

7. (*1*) Where the lands of an estate have been divided by private arrangement formally made and agreed to by all the proprietors, and each proprietor has, in pursuance of such arrangement, taken possession of separate lands to be held in severalty as representing his interest in the estate, no partition of the estate shall be made under this Act except—

(*a*) on the joint application of all the proprietors, or

(*b*) in pursuance of a decree or order of a Civil Court

(*2*) No objection to the partition of an estate under this Act on the ground that the lands have been divided by private arrangement shall be admitted unless it is presented before the Collector records a proceeding under section 29 declaring the estate to be under partition

Tenants for life not entitled to claim partition

8. Notwithstanding anything hereinbefore contained, no person having a proprietary interest in an estate for the term of his life only shall be entitled to claim partition under this Act

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CHAPTER III

SECURITY OF THE LAND-REVENUE

Future partitions not to relieve land from liability for total land revenue unless made as provided in this Act

9. No partition of an estate made after the commencement of this Act shall relieve any land from liability to the Government for the total demand of land-revenue assessed upon the estate of which the land forms part, unless the partition is made as herein provided

Amount of land revenue to be assessed on each separate estate

10. Except as otherwise provided in this Act, the amount of land-revenue assessed on each separate estate shall bear the same proportion to the whole amount of land-revenue for which the parent estate was liable as the assets of such separate estate bear to the whole assets of the parent estate.

(*Chapter III —Security of the Land-revenue—Secs 11-13*)

11. Subject to clauses ( ) and (*c*) of section 2 of this Act, no partition of an estate shall be made, and no application for the partition of an estate shall be admitted,— Restrictions on partition of estate with reference to land revenue

(*a*) if the annual amount of land-revenue for which the separate estate of the applicant would, after partition, be liable would not exceed ten rupees, or

(*b*) if, after separation of the applicant's interest, the annual amount of land-revenue for which the separate estate of the remaining proprietor or proprietors would be liable would not exceed five rupees, or

(*c*) if the Collector considers that for any reason any of the separate estates would be likely to prove an insufficient security for the payment of the land-revenue which would be separately charged upon it

12. (*1*) Any Civil Court which has made a decree for the partition or for the separate possession of a share of an undivided estate paying land-revenue to the Government may, notwithstanding anything in section 265 of the Code of Civil Procedure,[1] cause the decree to be executed in the manner prescribed in section 396 of that Code[2], and if it does so the joint and several liability of the entire estate for the whole of the land-revenue chargeable upon it shall not be prejudiced or affected Execution of decree for partition

(*2*) If any decree is sent to the Collector for execution under section 265 of the said Code,[1] the execution thereof shall be subject to the restrictions imposed by section 11 of this Act

13. The Collector may refuse to admit an application for the formation of land held in severalty into a separate estate, or to proceed with a partition undertaken on such an application, or to admit or proceed with any other application for partition, if in consequence of the land being intermingled with that held by other proprietors, the result of the partition would be to form out of a compact estate one or more estates consisting of scattered parcels of land in such a way as, in the opinion of the Collector, to endanger the safety of the land-revenue Power to refuse partition which would result in formation of estates scattered so as to endanger the safety of the land revenue

Provided as follows —

(*a*) a partition may be allowed in any such case if the recorded proprietors agree to such a distribution of land as would make the estates formed by the partition reasonably compact,

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[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure 1908 (5 of 1908) and this reference should now be taken to be made to section 54 of that Code—see s 158 thereof in the General Acts 1904-07 Ed 1909 p 184

[2] This reference should now be taken to be made to rules 13 and 14 in Order XXVI in Schedule I to the Code of Civil Procedure 1908—see s 158 of that Code in the General Acts 1904-07 Ed 1909, p 184

(b) nothing in this section shall be deemed to prohibit the partition into separate estates of any parent estate which before such partition is not compact and consists only of scattered parcels of land.

Interest alienated with special condition as to liability for land revenue.

14. No proprietor who has alienated any portion of his interest in an estate, or in any specific land of an estate, by private contract, with the condition that the transferee shall be liable in respect of the interest acquired by him to pay a specified amount or a specified share of the land-revenue for which the estate is liable (such amount or share being other than the proportionate amount or the proportionate share for which such transferred interest if formed into a separate estate would be liable under section 10),

and no proprietor who has derived his title from any proprietor who has made any alienation as aforesaid,

shall be entitled to claim a separation under this Act of the interest which he continues to hold in the estate;

and no such transferee as aforesaid, and no person deriving his title from such a transferee, shall be entitled to claim a separation of the interest which has been so acquired:

Provided that a separation of such interests may be made if the parties concerned agree—

(a) to waive the conditions of the contract as regards the proportion of land revenue for which the transferor and transferee or their representatives respectively are liable, and

(b) to hold the estates which may be allotted to them respectively by the partition subject to the payment of such amount of land-revenue as may be assessed upon them respectively under this Act.

Sale, for arrears of land revenue, of an estate which is under partition.

15. If any estate has been declared to be under partition as provided in section 29, any arrears of land-revenue accruing due thereon before the date specified in the notice issued under section 94 may be realized by sale of the estate as if the same had not been declared to be under partition, and, if such sale takes place the partition proceedings shall cease from the date thereof, but shall be revived if the sale is set aside.

Sale, for arrears of land revenue of share in an estate which is under partition.

16. Nothing contained in section 15 shall be deemed to affect the provisions of section 10, section 11, section 12, section 13 or section 14 of Act 11 of 1859[1] (*an Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency*), or any similar law for the time being in force, in respect to the opening of separate accounts for different shares in an estate and the protection afforded to such shares thereby:

Provided that, if any share in any estate is sold for its own arrears of land-revenue while such estate is under partition in accordance with the provisions of this Act, such share shall be

[1] The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

sold subject to the partition proceedings, which shall proceed as if no such sale had taken place, and the purchaser of the share sold may, from the date of such sale, exercise all the rights which the proprietor whose share he has purchased might have exercised, and shall be subject to all the liabilities to which such proprietor would have been subject in respect of the partition proceedings.

CHAPTER IV

INITIATION AND DISCONTINUANCE OF PARTITION PROCEEDINGS

Application for partition how to be made.

17. Every application for partition shall be made in writing to the Collector of the district on the revenue-roll of which the estate is borne and shall be presented by the applicant or by his duly authorized agent.

Application to be signed and to contain certain particulars.

18. Every such application shall be signed by the applicant or by his duly authorized agent, and shall contain the following particulars, so far as they are known to or can be ascertained by him, namely:—

(*a*) the name of the parent estate;

(*b*) the number under which such estate is borne on the revenue-roll, and the land-revenue demand for which it is liable;

(*c*) the number under which such estate is borne on the Collector's General Register of the revenue-paying lands;

(*d*) the name and address of every proprietor whether recorded or unrecorded, of such estate, the name and address of every proprietor of any other estate holding land in common with the proprietors of the parent estate, and the name of the post office of the area within which each of the said proprietors resides;

(*e*) the character and extent of the interest of which each proprietor of the parent estate is in possession;

(*f*) a specification of any land held by proprietors of the parent estate in common with proprietors of other estates and of the rights of such proprietors respectively in such land; and

(*g*) such further particulars, if any, as may be prescribed by rules made by the Board.[1]

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[1] As to the present constitution and powers of the Board of Revenue, see the Bengal Board of Revenue Act 1913 (Ben. Act 2 of 1913) post p. 77[illegible]

(Chapter IV—Initiation and Discontinuance of Partition Proceedings—Secs 19-21)

Application to be accompanied by copy of rent roll and by specification of previous measurements and record of rights

19. (*1*) Every such application shall, subject to the provisions of sub-section (*4*) of this section, be accompanied by a copy of the rent-roll of the estate, and by a specification referring to the papers of every measurement and record-of-rights which has respectively been made of and prepared for the estate by any officer appointed in that behalf by the Government or other competent authority and of which the person verifying the application under sub-section (2) has knowledge

(*2*) The said application, rent-roll and specification shall be verified at the foot of the application, by the applicant, or by his duly authorized agent having personal knowledge of the facts stated therein in the manner following, or to the like effect —

"I, A B, declare that the particulars contained in this application and in the rent-roll and specification accompanying it are correct to the best of my knowledge and belief"

(3 [illegible] or specification contains any [illegible] the verification knows or belie[illegible] to be true, such person shall be liable to be punished in the same manner as if he gave false evidence

(*4*) If the person presenting the application is unable to produce a rent-roll as required by sub-section (*1*) of this section, he shall state the reason of such inability, and the name and address of the person who has in his possession the information necessary for the preparation of such rent-roll, and the Collector may, if he thinks fit, require such person to produce such rent-roll

Procedure if application is not in order

20. If any such application does not in the opinion of the Collector fulfil the requirements of the foregoing sections of this Chapter, he may either reject it or return it for amendment

Notification and notice of application

21. If in the opinion of the Collector the application fulfils the said requirements, and if there appears to him to be no objection to making the partition he shall—

(*a*) publish a notification of the application in the manner prescribed by section 104, and also by causing copies to be posted up at the Court of the Judge of the district and at the Court of every *Munsif* and Sub-divisional Officer within whose jurisdiction, and at every police-station within the jurisdiction of which, any land appertaining to the estate is known to be situated,

(*b*) by such notification invite any person claiming any proprietary right in the estate, who may object to the partition, to state his objection, either in person or by duly authorized agent, on or before a day to be specified in the notification, not being less than

(*Chapter IV.—Initiation and Discontinuance of Partition Proceedings.—Secs. 22-24.*)

thirty or more than sixty days from the date of the publication of the notification on the estate, and

(c) serve a notice of the application on such of the recorded proprietors of the estate as have not joined in the application, on any unrecorded proprietor who has been named in the application, and on every proprietor of any other estate who holds land in common with the proprietors of the estate to which the application relates.

Power to reject application on receipt of objection.

22. If any person claiming a proprietary right as aforesaid states an objection to the partition on or before the day specified in the notification published under section 21, or at any subsequent time if it shall then seem fit to the Collector to admit such objection, and the Collector, on consideration of the objection, is of opinion that there is good and sufficient reason for rejecting the application, he may reject the same, and if he does so shall record the grounds of such rejection.

Procedure when objection raises any question of right or title or of extent of interest.

23. If any such objection raises any question of right or title or of extent of interest as between any applicant and any other person claiming to be a proprietor of the parent estate, and if it appears to the Collector that such question has not been already determined by a Court of competent jurisdiction, the Collector may hold such inquiry into the objection as he may deem necessary, and, if he be satisfied that the applicant is in possession of the extent of the interest for the separation of which he has applied, may instead of rejecting the application as provided in section 22,

(a) direct that the partition proceedings shall proceed for the purpose of forming and assigning to the applicant a separate estate in accordance with the extent of interest claimed by him in the parent estate, or

(b) direct that such proceedings be postponed for four months.

Resumption of proceedings after postponement.

24. At the expiration of the said four months the Collector shall resume the proceedings, unless the person who has made the objection, or some other person,—

(a) has obtained an order from a Civil Court directing that such proceedings be stayed, or

(b) shows that a suit has been instituted before a Civil Court to try some question of such a nature as to lead the Collector to think the proceedings ought to be stayed until the question has been finally decided or until the proceedings in such Court in respect thereof shall have terminated.

Separation of land held in common between the proprietors of two or more estates when the estates are not under partition

6. Whenever any land is held in common between the proprietors of two or more estates not being under partition any one or more of such proprietors may, without applying for partition of their several estates *inter se*, apply for separation of the land held by them in common, and for the allotment of the proper shares of such land to each of their separate estates, the land-revenue of those estates remaining unaltered, and such application shall be dealt with as far as may be in accordance with the provisions of this Act

Partition of lands under Act where a partition has been made by private arrangement

7. (*1*) Where the lands of an estate have been divided by private arrangement formally made and agreed to by all the proprietors, and each proprietor has, in pursuance of such arrangement, taken possession of separate lands to be held in severalty as representing his interest in the estate, no partition of the estate shall be made under this Act except—

(*a*) on the joint application of all the proprietors, or

(*b*) in pursuance of a decree or order of a Civil Court

(*2*) No objection to the partition of an estate under this Act on the ground that the lands have been divided by private arrangement shall be admitted unless it is presented before the Collector records a proceeding under section 29 declaring the estate to be under partition

Tenants for life not entitled to claim partition

8. Notwithstanding anything hereinbefore contained, no person having a proprietary interest in an estate for the term of his life only shall be entitled to claim partition under this Act

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CHAPTER III

SECURITY OF THE LAND REVENUE

Future partitions not to relieve land from liability for total land revenue unless made as provided in this Act

9. No partition of an estate made after the commencement of this Act shall relieve any land from liability to the Government for the total demand of land-revenue assessed upon the estate of which the land forms part, unless the partition is made as herein provided

Amount of land revenue to be assessed on each separate estate

10. Except as otherwise provided in this Act, the amount of land-revenue assessed on each separate estate shall bear the same proportion to the whole amount of land-revenue for which the parent estate was liable as the assets of such separate estate bear to the whole assets of the parent estate

of 1897.]

(Chapter III.—Security of the Land-revenue.—Secs. 11-13.)

Restrictions on partition of estate with reference to land revenue

11. Subject to clauses ( ) and (c) of section 2 of this Act, no partition of an estate shall be made, and no application for the partition of an estate shall be admitted,—

(a) if the annual amount of land-revenue for which the separate estate of the applicant would, after partition, be liable would not exceed ten rupees, or

(b) if, after separation of the applicant's interest, the annual amount of land-revenue for which the separate estate of the remaining proprietor or proprietors would be liable would not exceed five rupees, or

(c) if the Collector considers that for any reason any of the separate estates would be likely to prove an insufficient security for the payment of the land-revenue which would be separately charged upon it.

Execution of decree for partition

12. (1) Any Civil Court which has made a decree for the partition or for the separate possession of a share of an undivided estate paying land-revenue to the Government may, notwithstanding anything in section 265 of the Code of Civil Procedure,[1] cause the decree to be executed in the manner prescribed in section 396 of that Code[2], and if it does so the joint and several liability of the entire estate for the whole of the land-revenue chargeable upon it shall not be prejudiced or affected.

(2) If any decree is sent to the Collector for execution under section 265 of the said Code,[1] the execution thereof shall be subject to the restrictions imposed by section 11 of this Act.

Power to refuse partition which would result in formation of estates scattered so as to endanger the safety of the land revenue

13. The Collector may refuse to admit an application for the formation of land held in severalty into a separate estate, or to proceed with a partition undertaken on such an application, or to admit or proceed with any other application for partition, if in consequence of the land being intermingled with that held by other proprietors, the result of the partition would be to form out of a compact estate one or more estates consisting of scattered parcels of land in such a way as, in the opinion of the Collector, to endanger the safety of the land-revenue.

Provided as follows:—

(a) a partition may be allowed in any such case if the recorded proprietors agree to such a distribution of land as would make the estates formed by the partition reasonably compact,

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[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure 1908 (5 of 1908), and this reference should now be taken to be made to section 54 of that Code—see s. 158 thereof, in the General Acts, 1904-09, Ed. 1909 p. 184.

[2] This reference should now be taken to be made to rules 13 and 14 in Order XXVI in Schedule I to the Code of Civil Procedure 1908—see s. 158 of that Code in the General Acts 1904-09, Ed. 1909, p. 181.

(Chapter IV.—Initiation and Discontinuance of Partition Proceedings.—Secs. 19-21.)

Application to be accompanied by copy of rent-roll and by specification of previous measurements and record-of-rights.

19. *(1)* Every such application shall, subject to the provisions of sub-section *(4)* of this section, be accompanied by a copy of the rent-roll of the estate, and by a specification referring to the papers of every measurement and record-of-rights which has respectively been made of and prepared for the estate by any officer appointed in that behalf by the Government or other competent authority and of which the person verifying the application under sub-section *(2)* has knowledge.

(2) The said application, rent-roll and specification shall be verified at the foot of the application, by the applicant, or by his duly authorized agent having personal knowledge of the facts stated therein in the manner following, or to the like effect:—

"I, A. B., declare that the particulars contained in this application and in the rent-roll and specification accompanying it are correct to the best of my knowledge and belief."

(3) If the said application, rent-roll or specification contains any entry which the person making the verification knows or believes to be false, or does not believe to be true, such person shall be liable to be punished in the same manner as if he gave false evidence.

(4) If the person presenting the application is unable to produce a rent-roll as required by sub-section *(1)* of this section, he shall state the reason of such inability, and the name and address of the person who has in his possession the information necessary for the preparation of such rent-roll; and the Collector may, if he thinks fit, require such person to produce such rent-roll.

Procedure if application not in order.

20. If any such application does not in the opinion of the Collector fulfil the requirements of the foregoing sections of this Chapter, he may either reject it or return it for amendment.

Notification and notice of application.

21. If in the opinion of the Collector the application fulfils the said requirements, and if there appears to him to be no objection to making the partition he shall—

(*a*) publish a notification of the application in the manner prescribed by section 104, and also by causing copies to be posted up at the Court of the Judge of the district and at the Court of every *Munsif* and Subdivisional Officer within whose jurisdiction, and at every police-station within the jurisdiction of which, any land appertaining to the estate is known to be situated;

(*b*) by such notification invite any person claiming any proprietary right in the estate, who may object to the partition, to state his objection, either in person or by duly authorized agent, on or before a day to be specified in the notification, not being less than

thirty or more than sixty days from the date of the publication of the notification on the estate, and

(c) serve a notice of the application on such of the recorded proprietors of the estate as have not joined in the application, on any unrecorded proprietor who has been named in the application, and on every proprietor of any other estate who holds land in common with the proprietors of the estate to which the application relates.

22. If any person claiming a proprietary right as aforesaid states an objection to the partition on or before the day specified in the notification published under section 21, or at any subsequent time if it shall then seem fit to the Collector to admit such objection, and the Collector, on consideration of the objection, is of opinion that there is good and sufficient reason for rejecting the application, he may reject the same, and if he does so shall record the grounds of such rejection. Power to reject application on receipt of objection.

23. If any such objection raises any question of right or title or of extent of interest as between any applicant and any other person claiming to be a proprietor of the parent estate, and if it appears to the Collector that such question has not been already determined by a Court of competent jurisdiction, the Collector may hold such inquiry into the objection as he may deem necessary, and, if he be satisfied that the applicant is in possession of the extent of the interest for the separation of which he has applied, may instead of rejecting the application as provided in section 22, Procedure when objection raises any question of right or title or of extent of interest.

(a) direct that the partition proceedings shall proceed for the purpose of forming and assigning to the *applicant a separate estate in accordance with the* extent of interest claimed by him in the parent estate, or

(b) direct that such proceedings be postponed for four months.

24. At the expiration of the said four months the Collector shall resume the proceedings, unless the person who has made the objection, or some other person,— Resumption of proceedings after postponement.

(a) has obtained an order from a Civil Court directing that such proceedings be stayed, or

(b) shows that a suit has been instituted before a Civil Court to try some question of such a nature as to lead the Collector to think the proceedings ought to be stayed until the question has been finally decided or until the proceedings in such Court in respect thereof shall have terminated.

Suits instituted after four *months not* to affect or stay proceedings for partition

25. No suit instituted in a Civil Court, after the lapse of four months after the Collector has—

(*a*) made a direction under clause (*a*) or clause (*b*) of section 23, or

(*b*) recorded a proceeding under section 29,

by any person claiming any right or title in or to a parent estate, shall avail to affect or stay the progress of any proceedings which may have been taken under this Act for the partition of the estate

Decree *made while* partition proceedings are in progress

26. (*1*) Every decree affecting a parent estate made by a Civil Court after the estate has been declared under section 29 to be under partition, but before the date specified in the notice served under section 94—

(*a*) shall be made in recognition of the proceedings in progress under this Act for the partition of the estate, and

(*b*) shall be framed in such manner that the decree may be applied to, and carried out in reference to, the separate estates which the Collector in his proceeding recorded under section 29 has ordered to be formed out of the parent estate

(2) If the effect of any such decree be to declare any person or body of persons to be entitled to any extent of interest in the parent estate in excess of the extent of interest which the Collector in the said proceedings has declared to be held by such person or body of persons, the decree shall specify, separately in respect of every proprietor or body of proprietors of whose interests the Collector has separately specified the extent in the said proceedings, the proportion of such excess which such person or body of persons is entitled to recover from every such proprietor or body of proprietors;

and every person or body of persons so entitled to recover any extent of interest from any such proprietor or body of proprietors shall, for the purposes of the partition proceedings be deemed to have the same rights, and to be subject to the same liabilities, as a person who has acquired such extent of interest from a proprietor or body of proprietors by private purchase after an estate has been brought under partition under section 29 and on the date on which the decree was passed,

and such person or body of persons may apply, as in this Act provided, for the separation and assignment to him or them of the lands representing the extent of interest so acquired;

and, notwithstanding anything contained in section 11, such application shall be dealt with as provided in section 30,

and the lands thereupon assigned to the said person or body of persons shall be amalgamated with his or their separate estate.

Decree made after partition proceedings completed.

27. (1) Every decree affecting a parent estate made by a Civil Court after the date specified in the notice served under section 94, in a suit which was instituted as mentioned in section 25,—

(a) shall be made in recognition of the partition proceedings, and

(b) shall be framed so as to give effect to the division of the parent estate into separate estates which has been ordered by the Collector, and so as not to disturb such division.

(2) If the effect of any such decree be to declare any person or body of persons to have been entitled to any extent of interest in the parent estate in excess of the extent of interest which is represented by the separate estate assigned to such person or body of persons by the Collector in the partition proceedings the decree shall specify, separately in respect of the proprietor or joint proprietors of every separate estate formed by the partition, the proportion of such excess of interest which such person or body of persons is entitled to recover from such proprietor or joint proprietors;

and every person or body of persons so entitled to recover any extent of interest from the proprietor or joint proprietors of a separate estate shall be entitled to recover such extent of interest out of the separate estate which has been assigned to such proprietor or joint proprietors, and out of such separate estate only;

and the decree shall be executed by placing the person or persons so entitled in the position of a recorded joint proprietor or recorded joint proprietors of such separate estate, holding the same as a joint undivided estate in common tenancy with the proprietor or joint proprietors to whom such separate estate was assigned by the Collector in the partition proceedings, the extent of the interest of the joint proprietors respectively in such estate being such as is declared in the decree.

Power of Civil Court to order partition on application being made to Collector.

28. (1) A Civil Court may at any time direct the Collector, upon an application being made to him in accordance with sections 17, 18 and 19,—

(a) to assign to any person land representing a specified interest in any estate, or in any specified village or tract of land in an estate to be held by such person as a separate estate; or

(b) to divide off from any estate any specified land or villages, and to assign it or them to any person to be held as a separate estate.

Provided that no Civil Court shall in any such case—

(*i*) specify the amount of land-revenue for which any separate estate which it may direct to be formed under the provisions of this section shall be liable, or

(*ii*) direct the Collector to carry out a partition otherwise than in accordance with the provisions of this Act

(2) The Collector shall assess the land-revenue on every such separate estate in accordance with the provisions of this Act

Admission of application for partition, and procedure there upon

29. If no objection be made, within the time specified in the notification published under section 21, to an application for partition, or when all objections have been disposed of, and if the Collector has no reason to believe that any obstacle exists to his making the partition as applied for,

he shall direct that the application be admitted, and shall record a proceeding—

(*a*) declaring the estate to be under partition for the purpose of forming and assigning to the applicant a separate estate ,

(*b*) declaring the extent of interest in the parent estate which he finds to be held by the applicant or joint applicants , or, if more than one separate application for separation has been admitted, the extent of interest in the parent estate which he finds to be held by every separate applicant or body of joint applicants, respectively ,

(*c*) declaring the extent of interest which remains to any recorded proprietor or body of recorded proprietors who are not applicants ,

(*d*) ordering that land proportionate to the interest so declared to be held by each applicant, or body of joint applicants respectively, shall be formed into a separate estate, to be assigned to such applicant or body of joint applicants , and

(*e*) ordering that land proportionate to the interest so declared to remain to any recorded proprietor or body of recorded proprietors who are not applicants shall be left forming a separate estate ,

and shall at the same time issue a notice to each of the proprietors by registered post letter informing him that the application for partition has been admitted and that the partition will be proceeded with, and requiring him to register his name and address and to appoint an agent to accept service of process and to make any appearance or application or do any

act required or authorized to be made or done by a party to a partition under this Act

30. (*1*) At any time after the Collector has recorded a proceeding under section 29, and before the Deputy Collector has partitioned the land into separate estates under section 57, any recorded proprietor in the estate, other than the original applicant, may apply for the separation of his share

Subsequent application for separation of another share

(*2*) The Collector may reject or admit any such application, and if he admits it may order either that proceedings for affecting such separation shall be carried on simultaneously with the previous proceedings, or that compliance with the application be postponed until such previous proceedings have been completed, and the shares separated in accordance therewith

(*3*) When the consideration of any application which has been postponed under sub-section (*2*) is resumed, the papers of the previous proceedings aforesaid may be used so far as they are applicable

31. The Collector may refer any application for partition to any Deputy Collector for the purpose of making inquiries and doing any other thing authorized or required by this Chapter

Power of Collector to refer application for partition to Deputy Collector

Provided that every order—

(*a*) section 22,

(*b*) partition proceedings tponed,

(*c*) directing, under section 29, that an application for partition be admitted,

(*d*) made under section 30, or

(*e*) appointing a Deputy Collector under section 32,

and every proceeding recorded under section 29,

shall be made and recorded, respectively, by the Collector and not by any Deputy Collector

32. As soon as the Collector has declared an estate to be under partition as provided in section 29, he may appoint a Deputy Collector to carry out the partition and all or any of the proceedings necessary thereto

Power of Collector to appoint Deputy Collector to carry out partition

33. (*1*) If, at any time after an order has been passed for making a partition of a parent estate all the recorded proprietors of the estate present a petition to the effect that they do not wish the partition to proceed, the Collector may, after such inquiry as he considers necessary, strike the partition case off the file, and at the same time require the proprietors to pay all costs incurred in and about the partition

Power to strike partition case off the file on petition of parties Recovery of costs

(*2*) Any such costs which have not already been levied as provided in section 37 shall be levied in proportion to the shares of the respective proprietors

(Chapter IV.—Initiation and Discontinuance of Partition Proceedings—Chapter V.—Establishments and Costs.—Secs. 34-38.)

Power of Commissioner to strike partition case off the file. Recovery of costs.

34. (*1*) If, at any time after an order has been passed for making a partition, it appears to the Commissioner that any sufficient reason exists why the partition should not be proceeded with,

he may, on the report of the Collector or otherwise after issuing a notice calling on the persons interested to show cause why the partition case should not be struck off the file, and after considering any objections which may be made, order the partition case to be struck off the file.

(*2*) All costs which have not already been levied as provided in section 37 shall thereupon be levied in proportion to the shares of the respective proprietors.

CHAPTER V.

ESTABLISHMENTS AND COSTS.

Power to appoint establishments and prescribe scale of remuneration.

35. The Deputy Collector, with the approval of the Collector, and subject to any rules made in that behalf by the Board,[1] may appoint such persons as may be needed for the purposes of any proceedings under this Act and prescribe the scale of their remuneration.

Power to appoint special establishment.

36. In any district or division in which partitions are so numerous or extensive as to render necessary the appointment of a special establishment in the office of the Collector or of the Commissioner, the Collector or the Commissioner, as the case may be, with the previous sanction of the Board,[1] may appoint such establishment.

Estimating and levy of cost of partition.

37. (*1*) As soon as possible after an estate has been declared to be under partition as provided in section 29, the Collector shall estimate the cost of making the partition; and the amount shall be levied from the proprietors in such instalments and at such times as may be fixed by rules made by the Board.[1]

(*2*) If the amount first estimated is found insufficient, supplementary estimates may be made from time to time, and the required amount may be levied as provided in sub-section (*1*).

Apportionment of cost of partition.

38. The cost of making a partition shall be apportioned on the proprietors of the several shares in proportion to their shares:

Provided that whenever it appears to the Collector that any partition proceedings have been unnecessarily delayed and the cost of the partition enhanced, by obstacles vexatiously put in the way of the completion of the proceedings by one or more

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[1] As to the present constitution and powers of the Board of Revenue, see the Bengal Board of Revenue Act, 1913 (Ben. Act 2 of 1913), *post*, p. 779.

(Chapter V.—Establishments and Costs.—Secs. 39-41)

of the proprietors, or by want of due deligence on the part of one or more of the proprietors in carrying out any requisition made upon him or them,

the Collector may direct that such portion of the cost as he may think proper, in excess of the amount proportionate to the share or shares of such proprietor or proprietors, shall be paid by him or them.

Power of Deputy Collector to declare cost of local inquiry and by whom it is to be paid

39. Whenever any local inquiry is held by the Deputy Collector or any other officer, in consequence of an objection raised by any person to any record of measurements, rent-roll or other information which has been laid before the Deputy Collector,

the Deputy Collector may declare the cost which has been incurred by such inquiry, and may direct that the entire cost so declared—

(*a*) shall be paid by the person making the objection, or by any one of the proprietors, or

(*b*) shall be paid in such proportions as the Deputy Collector thinks fit, by the said person and the proprietors or any of them, or

(*c*) shall be deemed to be a part of the cost of the partition.

On completion of partition, total cost to be declared and account adjusted

40. (*1*) Upon the completion of a partition, the Collector shall make an order declaring the total cost thereof

(*2*) The account shall then be adjusted, either by returning to the proprietors any sums which they may have paid in excess of the total cost, or, if necessary, by levying from them, in the manner provided in section 108, any sums remaining due

Power to direct that salary of Deputy [illegible]

41. (*1*) Whenever it appears to the Lieutenant-Governor[1] that the work required to be done in connection with partitions under this Act in any district is so great that it would, if concentrated in the hands of one or more Deputy Collectors, fully occupy the time of such one or more Deputy Collectors, he may make an order directing that the salary of such one or more Deputy Collectors, as the case may be, shall be recovered from the proprietors of estates under partition in such district, as part of the costs of such partitions

(*2*) For the purposes of sub-section (*1*) the salary of a Deputy Collector shall be deemed to be the amount of salary which is drawn by a Deputy Collector of the lowest grade.

(*3*) Whenever it appears to the Lieutenant-Governor[1] that the said work in any district is so great as to occupy a considerable portion, though not the whole, of the time of a Deputy Collector,

or whenever a special establishment is appointed [illegible] section 36,

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[1] Now the Governor in Council of Fort William in Bengal—*see* the Bengal, Bihar [illegible] and Assam Laws Act, 1912 (7 of 1912), s 3, and Sch D, items 1 and 2, in Vol I of this [illegible]

(*Chapter V.—Establishments and Costs —Secs 42, 43*)

the Lieutenant-Governor[1] may direct that a portion of the salary of such Deputy Collector or the whole of the cost of such special establishment shall be recovered from the proprietors of estates under partition in such district, as part of the costs of such partitions

Estates Partition Fund

42. (*1*) The Lieutenant-Governor[1] may direct that in any district a Fund, to be called the "Estates Partition Fund," shall be formed, into which all sums levied from the proprietors of estates in such district in respect of partitions of their estates shall be paid and from which all costs of making partitions of estates in such district shall, except as provided in section 43, be defrayed

(*2*) When the formation of an Estates Partition Fund has been directed in any district, the charges leviable in that district from the proprietors of any estate under partition may, notwithstanding anything contained in the foregoing sections of this Chapter, be levied according to a general scale of fees to be fixed by the Board[2]

(*3*) Such scale of fees shall be fixed, as nearly as may be, so that the receipts and expenditure of the said Fund shall balance one another, and shall be revised from time to time by the Board[2] so as to secure compliance with this condition

(*4*) The said fees shall be apportioned, and the proportionate amount thereof due from any proprietor or proprietors may be increased, in the manner and under the circumstances mentioned in section 38

(*5*) The said fees shall be levied from the proprietors in such instalments and at such times as may be fixed in accordance with any rules which the Board[2] may make in this behalf

(*6*) An abstract of the Estates Partition Fund of each district, made up to the end of each financial year, shall be published in the Calcutta Gazette and posted up at the office of the Collector of the district

Order by Civil Court for payment by parties of costs of partition

43. (*1*) Whenever any Civil Court makes a decree awarding or declaring any proprietary right in an estate, and requires the Collector to make a partition of the estate, the Court shall, subject to the provisions of sections 38 and 39, at the same time direct either—

(*a*) that the party or parties who has or have withheld the right so decreed shall defray the whole of the costs of the partition or the whole of the fees payable in respect of the partition under section 42, or

(*b*) that the said costs or fees shall be defrayed by all or any of the parties to the suit in which the decree was made, in such

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[1] Now the G ... Bengal Bihar and Orissa ... I of this Code
[2] ... see the Bengal Board of

proportions as the Court may, upon a consideration of the particular circumstances of the case, deem equitable.

(*2*) Copies of all orders passed under sub-section (*1*) shall be transmitted to the Collector for his guidance, together with the precept which the Court issues to him requiring him to divide the estate; and the Collector shall levy the said costs or fees from the parties, in accordance with the order, in the same manner and by the same means as if the levy of such costs or fees had been ordered by himself.

CHAPTER VI.

PROCEEDINGS UP TO THE DETERMINATION OF THE PARTITION.

44. Every Deputy Collector making a partition shall, as regards the estate under partition, have, so far as they are applicable, all the powers exerciseable by a Survey-officer under the Bengal Survey Act, 1875,[1] and by a Revenue-officer employed in preparing a record-of-rights under Chapter X[2] of the Bengal Tenancy Act, 1885. Powers of Deputy Collector in making a partition.

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45. As soon as the Collector has recorded a proceeding under section 29, declaring an estate to be under partition, the Deputy Collector shall, subject to the provisions of section 49, make a survey and prepare a record of existing rents and other assets of all lands included in the estate. Deputy Collector when to make survey and prepare record of existing rents and assets.

46. In making a survey and preparing a record of existing rents and other assets of land under section 45, the Deputy Collector shall ascertain and record the following particulars, namely:— Particulars to be recorded.

(*a*) the name of each proprietor, landlord and tenant of the estate, and of every owner of revenue-free land and occupier of rent-free land therein;

(*b*) the situation, area and boundaries of the land owned or occupied by each of the said persons, and the character and extent of the interest held by each and the area of all other land in the estate which is not held by tenants;

(*c*) the rent then payable for all rent-paying lands,—

(i) as stated by the landlord,

(ii) as stated by the tenant, and

(iii) as taken by the Deputy Collector for the purposes of the partition; and

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[1] Printed in Vol. II of this Code.
[2] Printed in Vol. I of this Code.

(*d*) the assets, if any, of all other lands,

and shall be guided by such rules as the Board may make under section 121, clause (*l*)

Attestation of survey papers and record of existing rents and assets

47. (*1*) When the Deputy Collector has made a survey and prepared a record of existing rents and other assets of land under section 45, he shall publish a notification, in a form to be prescribed by the Board,[1] fixing a day on which he will be present in the village, or at a convenient place within limits of distance to be fixed by general or special order of the Board,[1] for the purpose of attesting the survey papers and record of existing rents and other assets

(*2*) On the date fixed by the notification, or on any other date to which the proceedings may be adjourned, the entries made in the record of existing rents and other assets under section 46, or such of them as the Board[1] may by rule prescribe shall be read out, and corrected or added to as may appear necessary, in the presence of such of the interested persons as are in attendance

(*3*) If the correctness of any entry is disputed, the Deputy Collector shall note the statements of such of the persons aforesaid as are interested in the disputed entry and shall, after making such local inquiry, if any, as he thinks fit, pass a summary order declaring what entry shall be accepted for the purposes of the partition

(*4*) If the correctness of any measurement is called in question and a fresh measurement is demanded, the Deputy Collector may require the costs of the re-measurement to be deposited.

(*5*) If the re-measurement shows the original measurement to have been inaccurate, the amount deposited shall be refunded to the objector

Publication of survey papers and record of existing rents and assets

48. When the survey papers and the record of existing rents and other assets have been attested as provided in section 47, the Deputy Collector shall cause a copy thereof to be locally published in such manner and for such period as the Board[1] may by rule prescribe, and there shall be furnished to each landlord and tenant a copy of such of the entries relating to his estate, tenure, or holding, as the case may be, as the Board[1] may by rule prescribe

Power of Deputy Collector to accept previous survey record-of-rights measurements or rent rolls, instead of making a new survey and record of existing rents and assets

49. If at any time a survey of the estate under partition or any part thereof has been made or a record-of-rights prepared by an officer appointed in that behalf under the orders of the Government, or

if any measurement papers and rent-rolls are filed under section 19, or at any time before a survey has been begun under section 45, and if the correctness of such measurement papers and rent-rolls is admitted in writing by all the proprietors,

[1] As to the present constitution and powers of the Board of Revenue see the Bengal Board of Revenue Act, 1913 (Ben. Act 2 of 1913), *post*, p 7 9

and is verified by the Deputy Collector after testing on the spot, and if the Deputy Collector is satisfied that the land revenue would not be endangered,

the Deputy Collector may, unless the Collector otherwise directs, and after making any correction which may appear necessary, accept the papers of such survey or the said record-of-rights, measurement papers or rent-rolls, instead of making a new survey and preparing a record of existing rents and other assets under section 45

50. When the documents referred to in section 48 have been published or any documents referred to in section 49 have been accepted the Deputy Collector shall record an order stating that such documents have been adopted for the purposes of the partition and shall— Record of order fixing of day for determining partition and service of notices

(*a*) fix a day on which to determine the partition of the lands into the several separate estates

(*b*) publish a notification calling on all the proprietors to be present on the day so fixed such day being not less than thirty or more than sixty days after the publication of the notification in his office, and at the same time serve a notice on each of the proprietors to the same effect, and

(*c*) serve a similar notice on the proprietors of each of the adjoining estates inviting them to appear and file their objections, if any, if they dispute the possession of any land of the estate under partition

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CHAPTER VII

PARTITION BY AMICABLE ARRANGEMENT OR BY ARBITRATION

51. (*1*) If all the recorded proprietors present on or before the day fixed under section 50 a petition requesting to be allowed to make the partition on the basis of the papers adopted by the Deputy Collector under Chapter VI,— Power to allow partition to be made by proprietors themselves or by arbitrators

(*a*) privately among themselves, or

(*b*) by arbitration,

the Deputy Collector may grant the request

(*2*) If, after such request has been granted, the proprietors or the arbitrators fail to make the partition within such time as may be fixed by the Deputy Collector in that behalf, the Deputy Collector shall make the partition himself

(Chapter VII—Partition by Amicable Arrangement or by Arbitration—Chapter VIII—Making of Partitions by the Deputy Collector, and approval thereof by the Collector—Secs 52-57)

Procedure on *reference to* arbitration

52. When a partition has been referred to arbitration the proceedings shall except as hereinafter otherwise expressly provided be conducted in accordance with the provisions of sections 506 to 522[1] (both inclusive) of the Code of Civil 14
Procedure so far as they are applicable

Arbitrators to deliver a partition paper

53. *(1)* The arbitrator or arbitrators shall within a period to be fixed by the Deputy Collector, which period may be further extended by him, deliver to the Deputy Collector a full and complete paper of partition in such form as the Board[2] may by rule prescribe

(2) If default is made in complying with sub-section *(1)* the Deputy Collector may withdraw the case from arbitration and may make the partition himself

Remuneration *of arbitrators*

54. *(1)* The arbitrator or arbitrators on delivering the paper of partition as aforesaid shall be entitled to reasonable fees for his or their services

(2) The amount of such fees shall be fixed with the approval of the Commissioner by the Deputy Collector who made the reference to arbitration and shall be deemed to form part of the costs of making the partition

Approval of Collector and other authorities

55 Every partition made under this Chapter by proprietors or by an arbitrator or arbitrators shall be subject to the approval of the Collector and the confirmation of the Commissioner

Provided that no such partition shall be disallowed except—

(*a*) on the ground of fraud or

(*b*) on the ground that the partition cannot be confirmed without endangering the safety of the land revenue

Assessment of land revenue

56. When a partition has been made under this Chapter the land revenue on each separate estate into which the parent estate is divided by such partition shall be assessed by the Collector in the manner prescribed by section 10

CHAPTER VIII

MAKING OF PARTITIONS BY THE DEPUTY COLLECTOR AND APPROVAL THEREOF BY THE COLLECTOR

Procedure *where no petition presented* under section 51

57. *(1)* If no petition is presented under section 51, the Deputy Collector shall on the day fixed under section 50, or

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[1]Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure 1908 (5 of 1908) and this reference should now be taken to be made to rules 1 to 16 in Schedule II to that Code—see s 158 thereof in the General Acts 1904-09 Ed 1909 p 184

[2]As to the present constitution and powers of the Board of Revenue *see* the Bengal Board of Revenue Act 1913 (Ben Act 7 of 1913) post p 779

on any subsequent day or days to which the hearing may be postponed by notice posted at his office,—

(i) consult all proprietors who are present, and
(ii) hear, and after such inquiry as he may consider necessary, dispose of any objections which they may urge

(2) The Deputy Collector shall then proceed to determine how the lands of the parent estate shall be partitioned into the separate estates, and all matters arising out of such partition, and shall cause to be prepared—

(a) a paper of partition, in a form prescribed by rules made by the Board,[1] specifying in detail—

(i) the lands which he has included in each separate estate, and the area of such lands,
(ii) the rental of such lands, and the other assets, if any, of each separate estate,
(iii) the name or names of the recorded proprietor or proprietors of each separate estate,
(iv) any stipulations which may have been made regarding places of worship tanks or other matters mentioned in Chapter IX and
(v) the amount of land-revenue to be assessed on each separate estate in the manner prescribed by section 10, and

(b) a map showing the lands which fall within each separate estate and the boundaries of such lands

(3) In making the partition the Deputy Collector shall be guided by the provisions of Chapter IX, and shall make the partition in the manner which, in his opinion, is on the whole most in accordance with those provisions and most equitable and convenient to all parties concerned

58. *(1)* The partition, as made under this Chapter, shall be submitted for the sanction of the Collector, and he shall by notice fix a day for the consideration of the same Submission of case to Collector his duties

(2) Every such notice shall be served on the proprietors and shall be published in the manner prescribed by section 104

(3) The day fixed by the said notice shall be not less than fifteen days after the publication of the notice at the Collector's office.

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[1] As to the present constitution and powers of the Board of Revenue, see the Bengal Board of Revenue Act, 1913 (Ben Act 2 of 1913) post, p 779

(4) After hearing and disposing of any objection which may be preferred, the Collector shall pass such orders as he may think proper—

(a) approving the partition, with or without amendments, or

(b) making a new partition, or

(c) returning the papers to the Deputy Collector for amendment of the partition, or for making a new partition, with such directions as to the Collector may seem fit in regard to the issue of a notice to appear to the proprietors or any of them who are specially interested

(5) If the papers are returned to the Deputy Collector, the Collector shall, on their re-submission, proceed again to consider the partition as provided in the foregoing sub-sections of this section

Duties of Deputy Collector when partition has been approved by Collector or when Collector makes a new partition

59. (1) When the partition has been approved by the Collector, the Deputy Collector shall, after making such alterations as may be necessary in the partition paper or map, or preparing a new partition paper or map, in accordance with the orders passed by the Collector,

(a) cause to be prepared a separate extract of the portion of the partition paper which relates to each separate estate,

(b) cause to be tendered to any recorded proprietor of a separate estate, or any authorized agent of such proprietor, who may be in attendance at the Deputy Collector's office, the extract which relates to such separate estate, and

(c) publish a notification at his office calling upon every proprietor to whom or to whose agent an extract from the partition paper has not been tendered as aforesaid, to take out of the Deputy Collector's office the extract of the portion of the partition paper relating to his separate estate.

(2) If the circumstances of the partition so require, an extract of the map prepared by the Deputy Collector, or a copy of such map, shall be annexed to every separate extract from the partition paper mentioned in sub-section (1)

(3) The Deputy Collector shall also proceed in the manner hereinbefore provided when the Collector makes a new partition.

Proprietor not appearing on fixed day not entitled to make objection

60. No proprietor who has failed to appear before the Deputy Collector in person or by agent on a day fixed, under section 50 or section 57 for the partition of the lands into the several separate estates, and no proprietor who has failed so to appear before the Collector on a day fixed under section 58, shall, unless he shows sufficient cause for such failure, be entitled at any subsequent time to make any objection to the orders which may be passed on such days respectively.

61. When a partition has been approved by the Collector, or when he has made a new partition, and after the tender of extracts and the publication of a notification as provided in section 59, the Collector— Submission of the papers to the Commissioner after approval of the partition by the Collector

shall cause a notice to be served on each of the recorded proprietors, stating that the papers will be submitted at once for confirmation of the partition by the Commissioner, and that any appeals or objections must be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days from the date of the service of the said notice,

and shall, after the issue of such notice, forward to the Commissioner all papers relating to the partition

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CHAPTER IX

General Principles for making Partitions

Lands held in common tenancy

62. Each separate estate shall be made as compact as is compatible with the primary object of making an equitable partition among the proprietors and with the provisions of this Chapter Separate estates to be made compact

63. In selecting the villages or land to be assigned to each separate estate formed out of a parent estate which has been held in common tenancy, the Collector shall take into consideration the advantages or disadvantages arising from— Circumstances to be considered in making partitions

(a) situation,
(b) the vicinity of roads, railways or navigable rivers or canals,
(c) the nature and quality of the soil and produce;
(d) the quantity of cultivable and uncultivable waste land;
(e) the facilities for irrigation,
(f) the state of embankments and water-courses, and
(g) liability to accretion and diluvion,

and any other circumstances affecting the value of the land.

64. *(1)* If a dwelling-house belonging to one proprietor is situated on any land which it may be necessary to include in the separate estate of another proprietor, the owner of the house may retain occupation thereof, with the buildings and grounds immediately attached thereto, upon agreeing to pay rent annually in perpetuity for the land occupied by the house, buildings and grounds to the proprietor of the separate estate in which such land is included. Rights when dwelling house belonging to one proprietor is situated on land allotted to another

(2) The limits of the land so occupied and the rent to be paid for it shall be fixed by the Deputy Collector, and shall be stated in the paper of partition.

(3) In every such case a defined pathway shall, as far as possible, be secured to the owner of the house, leading from the house to some portion of the separate estate allotted to him.

Power to apply section 64 to gardens etc

65. Whenever the Deputy Collector thinks fit, he may apply the provisions of section 64 to gardens, orchards, land planted with bamboos, and any other land which in his opinion is of special value to the proprietor in whose occupation it is found to be, in consequence of improvements made by such proprietor or of the particular use to which such land is put

Rent for land fixed under section 64 or 65 deemed to be the assets of the land

66. The rent fixed in perpetuity on any land by the Deputy Collector under section 64 or section 65 shall be deemed, for the purposes of the partition, to be the assets of such land

Redemption of rent fixed under section 64

67. When the dwelling-house of one proprietor, with the buildings and grounds immediately attached thereto, has been included in the separate estate of another proprietor, and the rent to be paid in perpetuity for the land occupied thereby has been fixed by the Deputy Collector and stated in the paper of partition,

the first-mentioned proprietor may apply to the Deputy Collector for permission to redeem the rent so fixed, and the Deputy Collector shall give such permission unless he is of opinion that the redemption would endanger the safety of the land-revenue for the payment of which the separate estate in which such dwelling-house, buildings and grounds have been included will be liable

Amount payable in redemption of rent

68. (1) If the Deputy Collector give permission as aforesaid, he shall certify the amount payable by the applicant in redemption of the rent

(2) Such amount shall be ten *per centum* above the sum which would be required to produce, in interest at four *per centum per annum*, an annual sum equal to the said rent

Such amount when payable

69. The amount certified under section 68 may be paid to the Deputy Collector at any time before, but not after, possession is under section 94, given to the several proprietors of the separate estates allotted to them

Notice of payment to be given, and land to be held rent free

70. On receipt of such payment, the Deputy Collector shall give notice to the proprietor in whose separate estate the land is situated—

(a) that such payment has been made,

(b) that the sum will be paid to him or to his authorized agent on application, and

(c) that, from the date on which possession as aforesaid is given, the proprietor who has redeemed the rent of

of 1897.]

(Chapter IX.—General Principles for making Partitions.—Secs 71-73)

such land will be entitled to hold the land as a rent-free tenure secured against the proprietor to whom the notice is given and against any auction-purchaser at a sale for arrears of revenue, including the Government,

and from such date the land shall be so held as a rent-free tenure

Collector to register the rent free tenure

71. The Deputy Collector shall at the same time give notice to the Collector of the district of the creation of such tenure, and the Collector shall thereupon cause such tenure to be specially registered in the manner provided by section 42 of Act 11 of 1859[1] *(an Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency)* or by any similar law for the time being in force.

Drawing of lots for equal shares

72. When two or more of the separate estates consist of the same proportions of the parent estate, the Deputy Collector may, if he thinks proper, direct the parties entitled thereto respectively to draw lots in his presence for the equal separate estates which have been formed by assignment of land,

unless the recorded proprietors of the equal shares agree among themselves as to the allotment of the equal separate estates and present a petition to that effect, or

unless for any other reason the Deputy Collector, with the sanction of the Collector, thinks proper to assign the equal separate estates to the proprietors of the equal shares without causing lots to be drawn

Order and method of drawing lots when aggregate of two or more shares equals one other share or equals the aggregate of two or more other shares

73. *(1)* When the aggregate of two or more shares equals one other share, or equals the aggregate of two or more other shares, the Deputy Collector, with the sanction of the Collector, may cause such aggregate shares to be treated as one share for the purpose of determining by lots as aforesaid which portion of the parent estate shall be assigned to each proprietor as his separate estate,

and may decide which shares shall be formed into one aggregate share for the purpose of causing such lots to be drawn;

and may cause lots to be drawn in like manner as often as he thinks proper for such purpose

(2) After lots have been drawn once (or more than once if necessary) as aforesaid, the Deputy Collector shall proceed to divide the portion of the parent estate which has fallen by lot to each aggregate share, among the proprietors of the different shares which were formed into such aggregate share for the

[1] The Bengal Land revenue Sales Act 1859 It is printed in Vol I of this Code

purpose of drawing lots, and shall assign to every such proprietor his separate estate within such portion in such position as the Deputy Collector may think proper.

Illustrations

I.—The partition of a parent estate is being made into the following shares :—

8 annas	3 annas
4 annas	1 anna

For the purposes of drawing lots the 4 annas, 3 annas and 1 anna shares may be taken together, and considered to be an aggregate 8 annas share.

The Deputy Collector will divide the parent estate into two halves of equal value, and will then cause lots to be drawn in order to determine which of the two halves shall ... all be divided ... to be drawn ... on the other hand of the aggregate share made up by taking together the 3 annas share and the 1 anna share.

II.—The partition is being made of a parent estate into the following shares :—

6 annas	3 annas
4 annas	2 annas
1 anna	

Two tracts in the estate may first be marked off, the value of each being equivalent to a 6 annas share and then, f... ment of these two tracts, the 4 ... as an aggregate 6 annas share ... aggregate 6 annas share so formed on the one hand, and the proprietor of the integral 6 annas share on the other.

... ietor ... the ... lots ... t to 5 annas of the parent estate, and may cause lots to be drawn for these two tracts between the proprietors of the 4 annas share and the 1 anna share taken together as an aggregate 5 annas share on the one hand and the proprietors of the 3 annas share and ...

Deputy Collector may require proprietors to attend or appoint agent for the purpose of drawing lots.

74. The Deputy Collector may, by notice, require any proprietor, in respect of whose share lots are to be drawn as provided in section 72 or section 73, to attend at the office of the Deputy Collector in person or by authorized agent, at a time to be fixed by the Deputy Collector, for the purpose of drawing lots,

and may similarly require the proprietors of any shares which he may have ordered to be formed into an aggregate share for the purpose of drawing lots, jointly to appoint an

agent to draw lots on their joint behalf, and if at the time fixed for drawing such lots, such proprietors have failed to agree to any such joint appointment, or fail to cause the attendance of an agent authorized to act jointly for all such proprietors, all such proprietors shall be deemed to have failed to comply with the Deputy Collector's requisition

75. If any proprietor or proprietors fail to comply with a requisition of the Deputy Collector under section 74, the Deputy Collector may appoint a person to draw lots on behalf of such proprietor or proprietors. In default, Deputy Collector may appoint a person to draw lots

Lands held in severalty

76. *(1)* When the lands of an estate have been divided by private arrangement formally made and agreed to by all the proprietors, and each proprietor is, in pursuance of such arrangement, in possession of separate lands held in severalty as representing his interest in the estate, the joint applications presented under section 7 may be to the effect— Partition according to separate possession and apportionment of land revenue

(*a*) that a partition of the estate be made by assigning to each proprietor or to two or more proprietors jointly, as his or their separate estate or estates, the lands of which they are in separate possession in pursuance of such arrangement, and

(*b*) that each separate estate so formed be made liable for such portion of the entire land-revenue of the parent estate as was paid by the proprietor or proprietors thereof under the private arrangement aforesaid

(2) The Deputy Collector who is appointed to carry out the partition in accordance with such application shall satisfy himself that the assets of each separate estate which it is proposed to form will be sufficient to secure the payment of the annual amount of land-revenue for which it is proposed to make such separate estate liable

(3) If the Deputy Collector is not satisfied that the assets of each such separate estate will be sufficient as aforesaid, or that with reference to the circumstances of the case, the partition of the land and the assessment of the land-revenue thereon may be made in the manner proposed without endangering the safety of the land-revenue, he shall reject the application, unless all the recorded proprietors agree that the land-revenue for which the parent estate is liable shall be apportioned among the separate estates so to be formed in such a manner that the safety of the total amount of the land-revenue shall not be endangered.

(Chapter IX.—General Principles for making Partitions.—Secs. 77-80)

Lands of which each proprietor is in possession to be allotted to him

77. Whenever the Deputy Collector who is appointed to carry out a partition finds that, in pursuance of a private arrangement formally made and agreed to by all the proprietors of an estate, the proprietors respectively, or any of the proprietors, are in possession of separate parcels of land held in severalty as representing portions only of their respective interests in the parent estate, while other land of the parent estate is held in common tenancy between such proprietors, then, notwithstanding anything contained in section 7, a joint application shall not be required, and the Deputy Collector shall allot to the separate estate of each proprietor the land of which such proprietor is found to be in possession in severalty in accordance with such private arrangement.

Explanation.—Land held in the occupation of the several proprietors of an estate as, *sir khamar* or *nij jot* or under any other similar denomination shall not be deemed to be land held in severalty as representing portions of their respective interests in the parent estate within the meaning of this section, which applies only to cases in which there has been a *bonâ fide* division by private arrangement among the proprietors of land held by tenants.

Collector may cause transfer of lands agreed to by parties

78. Notwithstanding anything in section 77, the Collector may cause any transfer of land agreed to by the parties to be made from the possession of one proprietor to that of another.

Lands held in common tenancy and Lands held in severalty.

Places of worship etc

79. Places of worship, burning-grounds and burial-grounds which have been held in common previous to the partition of an estate, and land of which the proceeds have been assigned by the proprietors jointly for religious, charitable or public purposes, shall continue to be held in common unless the pro- [illegible] ves, in which case they [illegible] into which they have [illegible] . . [illegible] shall enter a note of the agreement in the paper of partition.

Tanks, wells water-courses reservoirs and embankments

80. *(1)* Tanks, wells, water-courses, reservoirs and embankments shall be deemed to be attached to the land for the benefit of which they were originally made.

(2) In cases in which, from the extent, situation or construction of any such works, it is found necessary that they should remain the joint property of the proprietors of two or more separate estates, the paper of partition shall specify, as far as the circumstances admit, the extent to which the proprietors of each of such estates may make use of the same, and the proportion of the charges for repairs to be borne by them respectively.

*(Chapter IX.—General Principles for making Partitions —
Secs 81-83.)*

Splitting up of tenure or holding, and apportionment of rent thereof

81. *(1)* No tenure or holding shall be split up for the purposes of a partition unless it is reasonably necessary to do so in order to effect an equitable partition.

(2) If a tenure or holding be split up as aforesaid, the total existing rent thereof, as ascertained under Chapter VI, shall not be altered, but shall be apportioned among the several parts into which the tenure or holding is divided

(3) When it is proposed to split up a tenure or holding and apportion the rent thereof as aforesaid, the Deputy Collector shall cause a notice to be served on the tenants concerned and, after hearing their objections, if any, may order that the tenure or holding be split up, and that the rent thereof be apportioned as aforesaid.

(4) The Deputy Collector shall notify such apportionment to the tenants concerned

Land held rent free not to be divided, except with consent of recorded proprietors

82. When the Deputy Collector finds in a parent estate land which is claimed to be held rent-free and for which no rent is actually paid (whether the proprietors of the estate do or do not claim a right to receive rent from the land), he shall not make any division or assignment of such land among the separate estates, but shall specify in the partition papers and proceedings that such land is left appertaining jointly to all the separate estates which are formed out of the parent estate, in the proportion which each separate estate bears to the parent estate·

Provided that such land or any of it may be allotted among the different separate estates with the consent of all the proprietors of the parent estate

[illegible]

83. *(1)* When the Deputy Collector finds in a parent estate any land which is held at a fixed rent on a *patni* or other permanent intermediate tenure created by all the proprietors of the estate or admitted by all the recorded proprietors to have been so created, he may either—

(*a*) assign such land and the assets thereof entirely to one or more of the separate estates formed out of the parent estate, or

(*b*) leave such land unassigned to any separate estate, and specify in the partition paper and proceedings that the land is left appertaining jointly to all the separate estates which are formed out of the parent estate in the proportion which each separate estate bears to the parent estate

(2) In the event of such land being so left unassigned Deputy Collector shall assign to each separate estate such of the rent of the tenure as bears the same proportion to entire rent of the tenure as the separate estate bears parent estate

(3) In dealing with a tenure under this section, the Deputy Collector shall take into consideration the extent of the land comprised in the tenure, and all other circumstances of the case

Land held in common between the proprietors of two or more estates how to be dealt with when one estate is under partition

84. When any land is held in common between the proprietors of two or more estates, one of which is under partition in accordance with the provisions of this Act, the Deputy Collector shall first allot to the estate under partition a portion of such common land of which the assets are in proportion to the interest which the proprietors of such estate hold in the said common land,

and all the provisions of this Act in respect of the allotment, between the shareholders in one estate, of land which is held jointly by such shareholders, shall, as far as possible, apply to the allotment of the proportionate share of such common land to the estate under partition;

and, in respect of the service of notices, the hearing of objections, and all other procedure in view to such allotment, the proprietors of the estate under partition, and all other proprietors of estates who have an interest in the said common land, shall be deemed to be joint proprietors of a parent estate consisting only of the land so held in common

Provided that all costs of any division of lands so held in common between the proprietors of two or more estates shall be deemed to be costs of making the partition of the estate which is under partition, and shall be leviable, as provided by this Act, from the proprietors of such estate, and the proprietors of any other estate having an interest in such lands shall not be required to bear any portion of such costs

When proprietors of other estates may be required to pay a portion of the costs of making a division under section 84

85. Notwithstanding anything contained in section 84, if it appears to the Collector that the proceedings for any such division have been unnecessarily delayed and the cost of such division enhanced, by obstacles vexatiously put in the way of the completion of such division by any proprietor of any estate other than that under partition, or by want of due diligence on the part of any such proprietor in carrying out any requisition made upon him,

the Collector may direct that such sum as he shall think fit shall be levied from every such proprietor who is responsible for such delay or additional cost,

and every sum so levied shall be taken in diminution of the amount payable by the proprietors of the estate under partition as costs of such partition

Allotment made under section 84 to be submitted to the Collector

86. Every allotment made under section 84 shall be submitted for the approval of the Collector, who may confirm, amend or reject the same, and if he rejects it, may make or direct to be made another allotment

(Chapter IX—General Principles for making Partitions—Secs. 87, 88)

Land so allotted how to be dealt with

87. When any allotment made under section 84 has been approved by the Collector, the land so allotted shall be dealt with in every respect as if it were held in common tenancy by such of the proprietors of the estate under partition as were found to hold interests in the common land

Procedure when dispute or doubt exists as to whether any land forms part of a parent estate

88. (*1*) If a dispute or doubt is found to exist as to whether any land forms part of a parent estate, the Deputy Collector shall, after due notice to the parties interested inquire into the fact of possession and shall report his conclusions to the Collector, and thereupon the Collector shall dispose of the matter as follows —

(*a*) he may order that the partition case be struck off the file, if such an order appears to him advisable, and whether the possession of the disputed land is with the proprietors of the parent estate or otherwise, or

(*b*) he may order that the partition shall proceed, and that the disputed land be treated as part of the estate under partition, if the possession of such land is with the proprietors of the parent estate and the claim of the other parties to the right in such land appears to him untenable, or

(*c*) he may order that the partition shall proceed, but that the disputed land shall not be treated as part of the estate under partition, if the possession of such land is with the other parties and the claim of the proprietors of the parent estate to the right in such land appears to him untenable

Provided as follows —

(i) if a claim to land alleged to be in dispute is filed after the Deputy Collector proceeds under section 57 to determine how the lands of the parent estate shall be partitioned into the separate estates, the claim shall not be inquired into under this section unless the delay on the part of the claimant is explained to the satisfaction of the Deputy Collector,

(ii) no partition shall be made in any case mentioned in this section if such partition would involve the assignment to any separate estate of such a quantity of the disputed land that the removal of such land from such estate at any subsequent time would, in the opinion of the Collector, endanger the safety of the land-revenue for which such estate would be liable after the partition

(*2*) If a partition case is struck off the file under clause (*a*) of this section, no fresh application for partition shall be admitted unless and until the applicant shows that the dispute or doubt aforesaid has been decided by a Court of competent jurisdiction, or has been amicably settled; but if a fresh

application is admitted, the proceedings shall be revived from the point at which they were interrupted

Procedure when partition completed in pursuance of order under section 88 clause (*b*) and proprietor of an estate dispossessed of any land by decree

89. If, after a partition has been completed in pursuance of an order passed by the Collector under section 88, clause (*b*), the proprietor of any separate estate is dispossessed by a decree of a Court of competent jurisdiction of any land which has been assigned to his estate by the partition,

the partition shall not be disturbed, but such proprietor shall be entitled to recover from the proprietors of the other separate estates formed by the partition such compensation as may be fair and equitable, having regard to the reduction in the proportionate value of his separate estate which is caused by such dispossession,

and such compensation may be recovered in a Court of competent jurisdiction from the proprietors of those separate estates on which a proportionate share of the total loss caused by the dispossession does not fall

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CHAPTER X

PROCEDURE BEFORE THE COMMISSIONER UP TO THE COMPLETION OF A PARTITION.

Procedure if proceedings require amendment or if appeal or objection presented

90. (*1*) If it appears to the Commissioner that the proceedings of the Collector should be amended, or if an appeal or objection is presented within the time allowed by section 61, the Commissioner shall, by order, fix a day (not being less than thirty days from the date of such order) for hearing and disposing of the case, and shall cause notice of such day to be served through the Collector on all the parties

(*2*) On the day so fixed or on any subsequent day to which the hearing of the case may extend or is postponed by a notice posted up in his own office the Commissioner shall, after hearing and disposing of all appeals and objections, and calling for any further information which he may consider necessary, either confirm the partition as approved or made by the Collector, with or without amendments, or return the papers of the partition to the Collector for any amendments which the Commissioner may think proper to be made.

(*3*) If the papers are returned to the Collector for amendment, the Collector shall proceed to make the required amendments or to cause them to be made in the same manner as if he had himself passed such orders on a partition submitted to

(*Chapter X.—Procedure before the Commissioner up to the completion of a Partition.—Secs. 91-94.*)

him for approval by a Deputy Collector, and shall thereafter return the papers to the Commissioner, who may then confirm the partition.

Procedure in other cases.

91. If it does not appear to the Commissioner that the proceedings of the Collector require amendment, or if no appeal or objection is presented within the time allowed by section 61, the Commissioner may proceed to consider the case without issuing any notice, and may confirm the partition as approved or made by the Collector.

Commissioner may return the papers for amendment or inquiry as often as he thinks fit.

92. The Commissioner may, before confirming a partition, return the papers for amendment or inquiry as often as he thinks fit, and as often as he so returns them the procedure prescribed in the foregoing sections of this Chapter shall be applicable.

Procedure by Collector on receipt of Commissioner's order confirming, or Board's order sanctioning, a partition.

93. (*1*) After the expiration of not less than sixty days from the date of the order of the Commissioner confirming a partition,

or if an appeal has been preferred to the Board, or if any proceedings in respect of the partition be pending before the Board, then on receipt of the final order of the Board, if such order does not set aside but maintains, with or without amendments, the partition as confirmed by the Commissioner,

the Collector shall cause to be published at his office, and at some conspicuous place in each of the estates separately constituted by the order of the Commissioner or the Board, as the case may be, a notice that the partition has been confirmed or sanctioned by the Commissioner or the Board, with or without amendments, as the case may be.

(*2*) If the partition as so confirmed or sanctioned involves any amendments which may conveniently be made on any extracts of the partition paper or on any maps which have been prepared and delivered to recorded proprietors under section 59, the Collector shall cause a notice to be served on every recorded proprietor whose estate is affected by such amendments, requiring him to produce such extracts and maps in order that such amendments may be noted on them;

and, if the alterations made in the partition as so confirmed or sanctioned be such as to make it desirable to prepare fresh extracts or maps as aforesaid, the Collector shall cause such fresh extracts or maps to be prepared; and shall cause a notice to be served on each proprietor declaring the extract and map which was delivered under section 59 to be cancelled, and requiring him to take out of the Collector's office the fresh extract or map which has been prepared.

Procedure as to giving possession of separate estates.

94. (*1*) The Collector shall then proceed to give the several proprietors possession of the separate estates allotted to them, and, if necessary, may require the assistance of the Magistrate in giving such possession;

and shall cause to be served on every recorded proprietor of a separate estate a notice—

(*a*) informing him that from the date specified in such notice the separate estate assigned to him, as described in the extract from the partition paper prepared and delivered or tendered to him under section 59 or section 93, as the case may be, will be deemed to be separated from the parent estate, and to be separately liable for the amount of land-revenue specified in the notice, and

(*b*) calling upon him to enter into a separate engagement for the payment of such land-revenue.

(2) The date specified in such notice shall be not more than three months after the proprietors have been given possession of their respective separate estates as provided in sub-section (*1*)

Each separate estate to be borne on the revenue roll and General Register as separately liable for the land revenue assessed upon it

95. From the date specified in such notice, each separate estate shall be borne on the revenue-roll and General Register of the Collector as a distinct estate separately liable for the amount of land-revenue assessed upon it under this Act, and shall be so liable whether or not the proprietor has entered into a separate engagement for the payment of the amount of land-revenue so assessed upon the estate.

Boundary marks

96. (*1*) The Collector may direct the erection of such boundary marks as he thinks proper, to distinguish the lands of each separate estate, and the cost of such boundary marks shall be deemed to be costs of the partition.

(*2*) Boundary marks so erected shall be assigned to *zamindars*, or to *zamindars* jointly with tenure-holders, for preservation, as provided in the third clause of section 29 of the Bengal Survey Act, 1875[1], and, after they have been so assigned, the provisions of sections 19, 20 and 52 to 57 (both *inclusive*) of the said Act shall apply in the case of such boundary marks Be 187

CHAPTER XI.

MISCELLANEOUS

Powers of Deputy Collector as to production of documents and attendance of witnesses

97. For the purposes of any inquiry under this Act, the Deputy Collector shall, in addition to the powers specifically conferred upon him by this Act, have the powers conferred by

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[1] Printed in Vol II of this Code

(Chapter XI.—Miscellaneous—Secs 98-100)

Chapters X and XIV of the Code of Civil Procedure[1] for compelling the production of documents and enforcing the attendance of witnesses.

General power to refer to arbitration

98. The Deputy Collector, with the consent of all the parties concerned, may refer to arbitration[2] any point arising in the course of a partition, and the provisions of sections 52, 53 and 54 shall, as far as possible, be applicable to such references

Saving of tenures leases and incumbrances

99. If any proprietor of an estate held in common tenancy and brought under partition in accordance with this Act has given his share or a portion thereof in *patni* or other tenure or on lease, or has created any other incumbrance thereon, such tenure, lease or incumbrance shall hold good as regards the lands finally allotted to the share of such proprietor, and only as to such lands.

Illustrations

I—A the proprietor of a quarter share in a joint undivided estate held in common tenancy, gives to B a *patni* tenure of the whole of his interest in the estate entitling B, as long as such estate is held in common tenancy to collect one fourth of the rent payable by every *raiyat* on the estate and

partition of the said estate is made under this Act and certain specific lands are assigned to A as his separate estate

B will become *patnidar* of the entire separate estate which has been assigned to A, and will be entitled to collect the whole of the rents from the *raiyats* on that estate

II—A, a proprietor of a quarter share in a joint undivided estate held in common tenancy gives to B a *patni* tenure of one half of his share in the estate, entitling B as long as such estate is held in common tenancy to collect one eighth of the rent payable by every *raiyat* on the estate, and

partition of the estate is made under this Act and certain specific lands are assigned to A as his separate estate

B will become *patnidar* of one half of A s separate estate and will hold his *patni* in common tenancy with the half of A s interest which A has not given in *patni* so that B will be entitled to collect one half of the rent payable by every *raiyat* on A s estate, and A will be entitled to collect the other half

Uniting of estates

100. *(1)* If two or more estates come into the possession of one proprietor or of the same body of proprietors, such proprietor, or body of proprietors may, after being recorded as proprietors, apply to have the estates united and to hold them as a single estate

(2) Every such application shall be made in writing to the Collector, and the Collector shall, if he sees no objection to doing so, comply with it not less than thirty days after the publication of a notification thereof, and shall then cause the necessary entries to be made in the records of his office and report the case to the Commissioner

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[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure 1908 (5 of 1908) and this reference should now be taken to be made to sections 30 31 and 32 of and Orders XI ... 158 thereof, in the General Acts, 1901-09,

... Act, 1899 (9 of 1899), in the General Acts,

If separate estate falls into arrear Collector to inquire into cause and report to Commissioner

101. If any separate estate created under this Act falls into arrear so as to necessitate a sale of the land for the discharge of the arrear at any time within six years from the date of the confirmation or sanction of the partition by the Commissioner or the Board,[1] as the case may be,

the Collector shall, if possible, ascertain the cause of the estate having fallen into arrear, and shall inquire whether the same is due to any fraudulent or erroneous allotment of the assessment or assignment of lands at the time of the partition, and shall make a report upon the case to the Commissioner for such action as the Commissioner may think proper.

Power of Lieutenant Governor to order a new allotment of the land revenue

102. If it is proved to the satisfaction of the Lieutenant-Governor[2] at any time within six years from the date of the confirmation or sanction of a partition by the Commissioner or the Board,[1] as the case may be, whether or not upon inquiry made under section 101, that through any fraud or error at the time of making the partition the assets of the lands assigned to any separate estate were not in proportion to the amount of land-revenue for which such estate was made liable, or that the amount of land-revenue assessed on any separate estate was not in proportion to the assets of the lands assigned to such estate,

the Lieutenant-Governor[2] may order a new allotment of the land-revenue upon the separate estates in accordance with the principles prescribed in this Act, on an estimate of the assets of each such estate as they stood at the time of the partition, such estimate being made on such evidence and information as may be procurable

Power to require proprietors of under assessed estates to make refund to proprietors of over assessed estates

103. (1) Whenever the Lieutenant-Governor[2] passes an order under section 102 for the re-allotment of the land-revenue on any separate estate, he may direct that the proprietors whose estates are found to have been under-assessed shall, for each year during which they have held possession of the separate estates, be required to pay, to the recorded proprietors of the estates which have been over-assessed, a sum equal to the annual amount in which the latter are found to have been over-assessed, and in default of payment such sum shall be recoverable as provided in section 108.

(2) No order passed by the Lieutenant-Governor[2] under sub-section (1) shall be liable to be contested in any Court

Publication of notifications

104. Every notification required by this Act to be published shall, unless it is otherwise specially directed, be published by posting up copies of the same—

(a) at the office of the Collector,

(b) at the office of the Deputy Collector who is to make, is making or has made the partition,

[1] As to the present constitution and powers of the Board of Revenue, see the Bengal Board of Revenue Act 1913 (Ben Act 2 of 1913) post p 779

[2] Now the Governor in Council of Fort William in Bengal—see the Bengal Bihar and Orissa and Assam Laws Act 1912 (7 of 1912), s 3, and Sch D, items 1 and 2, in Vol I of this Code

(*Chapter XI—Miscellaneous—Secs 105 107*)

(*c*) at the village office or village offices if any, of the proprietors of the parent estate and

(*d*) in one or more of the principal villages in the said estate

105. (*1*) Any notice required by this Act to be served on any person may be served— Service of notices

(*a*) by delivering the notice to the person to whom it is directed or on failure to effect such delivery by posting it on some conspicuous part of the house in which the said person usually resides or

(*b*) by sending a registered letter containing the notice to such person directed to the address if any which he has registered under this Act, or

(*c*) by delivering the notice to a general agent of the person to whom it is directed or to any person who has been appointed in that behalf or who has been appointed an agent of the person to whom the notice is directed for the general purposes of any partition under this Act, or

(*d*) by affixing a copy of the notice at the village office of the person to whom the notice is directed,

or, if no such village office be found, and if the notice cannot be served in any of the other modes mentioned in this section by affixing a copy of the notice on some conspicuous place on the estate to which the notice relates

(*2*) Where two or more persons are joint applicants for the separation of an estate to be held by them jointly as a separate estate, the service of a notice in any of the modes mentioned in sub section (*1*) on any one of such joint applicants shall be deemed to be good and sufficient service on both or all of them

106. If the directions of this Act are in substance and effect complied with no proceedings thereunder shall be affected— Mistakes and irregularities not to vitiate proceedings

(*a*) by reason of any mistake or informality unless any person has suffered or is in danger of suffering material injury in consequence of such mistake or informality, or

(*b*) by reason of the omission to publish any notification required by this Act or to serve any notice on any person whose name is not recorded on the Collector's registers as proprietor of the estate in respect of which the notice is required by this Act to be served

107. If any proprietor or other person fails to comply within the time fixed therefor by notice with any requisition made upon him under this Act by the Collector or Deputy Collector the Collector or Deputy Collector as the case may be may impose upon him such daily fine as he may think fit not exceeding fifty rupees Fine in case of non-compliance with requisition

and such fine shall be payable daily until the requisition is complied with,

and the Collector or Deputy Collector, as the case may be, may proceed from time to time to levy the amount which has become due in respect of any such fine:

Provided that, whenever the amount payable exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner, and no further levy in respect of the fine shall be made otherwise than by the authority of the Commissioner.

Fees, etc., to be recoverable as public demands.

108. Except as herein otherwise expressly provided, all fees, fines, costs and other sums ordered under this Act to be paid by any person shall be deemed to be public demands, and shall be recoverable under the Public Demands Recovery Act, 1895.[1] Ben. Act I of 1895.

Powers and functions of Deputy Collector may be exercised by Collector.

109. All or any powers and functions which are assigned by this Act to a Deputy Collector may be exercised and discharged by the Collector;

and whenever it is provided by this Act that any act done or order made by a Deputy Collector shall require the sanction of the Collector, or shall be appealable to the Collector, then if such act has been done, or such order has been made, by the Collector, it shall be deemed to have been sanctioned by the Collector or to have been confirmed by the Collector in appeal, as the case may be.

Power to vest Collector or Deputy Collector with settlement powers.

110. (*1*) The Lieutenant-Governor[2] may vest any Collector or Deputy Collector with all or any of the powers which, under the provisions of any law for the time being in force, might be exercised by them respectively, or might be conferred on them respectively, if they were making a settlement of a parent estate.

(*2*) Such powers may be conferred either generally in respect of all estates in the partition of which the Collector or Deputy Collector may at any time and in any district be engaged, or specially in respect of any particular estate.

Appeals to the Collector and admission by him of objections.

111. (*1*) An appeal, if presented within one month from the date of the order appealed against, shall lie to the Collector against every order of a Deputy Collector—

(*a*) directing under section 39, by whom or how the costs of an inquiry held in consequence of an objection raised shall be paid;

(*b*) made under section 47, sub-section (*3*), declaring what entry in a record of existing rents and other assets of land shall be accepted for the purposes of the partition;

(*c*) made under section 50, adopting a record of existing rents and other assets of land;

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1 Ben. Act I of 1895 has been repealed and re-enacted by the Bengal Public Demands Recovery Act, 1913 (Ben. Act 3 of 1913), s. 2, printed *post*, p. 789, and this reference should now be construed as a reference to the latter Act—*see* the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, *post*, p. 180.

2 Now the Governor in Council of Fort William in Bengal—*see* the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3 and Sch. D, items 1 and 2, in Vol. I of this Code.

(*Chapter XI—Miscellaneous—Sec 112*)

(*d*) refusing, under section 51 to allow recorded proprietors to make a partition privately among themselves or by arbitration

(*e*) rejecting under section 76 sub section (*3*) an application for partition according to separate possession

(*f*) directing under section 81 sub section (*3*) that a tenure or holding be split up and that the rent thereof be apportioned or

(*g*) imposing a fine under section 107

(*2*) Objections to any other orders passed by the Deputy Collector shall only be admitted by the Collector if made when he proceeds to consider a partition under section 58

112 (*1*) An appeal if presented to the Commissioner or to the Collector for transmission to the Commissioner within one month from the date of the order appealed against shall lie to the Commissioner against every order of a Collector (whether such order be passed by the Collector in the first instance or in appeal from the order of a Deputy Collector)— Appeals to the Commissioner and admission by him of objections

(*a*) rejecting an application for the partition of an estate or for the separation of a share or putting an end to proceedings for effecting a partition or separation after the application has been admitted

(*b*) directing under section 29 that an application for partition or separation be admitted

(*c*) directing under section 38 that any proprietor shall pay more than his proportionate share of the cost of a partition

(*d*) made under section 50 adopting a record of existing rents and other assets of land

(*e*) refusing under section 55 to approve a partition made by proprietors or by an arbitrator or arbitrators

(*f*) refusing to allow a partition to be made under section 76 in accordance with separate possession

(*g*) directing under section 85 that any sum exceeding five hundred rupees shall be levied from the proprietor of an estate not under partition

(*h*) confirming amending or rejecting under section 86 an allotment made under section 84

(*i*) made under section 88 when a dispute or doubt exists as to whether any land forms part of a parent estate

(*j*) imposing or confirming the imposition of a fine under section 107 or

(*l*) imposing any fine amounting to more than fifty rupees or directing the payment of any costs amounting to more than fifty rupees

(*2*) Objections to any other orders passed by the Collector shall only be admitted by the Commissioner if made when he proceeds to consider a partition under section 90 or section 91

(Chapter XI.—Miscellaneous.—Secs. 113-116.)

Appeals to the Board

113. An appeal, if presented to the Board[1], or to the Commissioner for transmission to the Board[1], within six weeks from the date the order appealed against, shall lie to the Board[1] against every order of the Commissioner—

(*a*) confirming modifying or reversing any order of the Collector rejecting an application for the partition of an estate, or putting an end to proceedings for effecting a partition after the application has been admitted;

(*b*) confirming, modifying or reversing any order of the Collector directing, under section 29, that an application for partition be admitted,

(*c*) confirming or amending a partition as approved or made by the Collector, or

(*d*) imposing, or confirming the imposition of, any fine amounting to five hundred rupees, or ordering or confirming an order directing the payment of any costs amounting to more than five hundred rupees

Limitation of appeals revision by Board further appeal to Board

114. (*1*) Except in the cases mentioned in section 113, when an order of a Collector, whether passed by him in the first instance or in appeal from the order of a Deputy Collector, is upheld by the Commissioner, no further appeal shall lie, but the Board[1], acting either on the application of the party aggrieved or of their own motion, may call for the record of the case and pass such order as they think fit

(*2*) When an order of a Collector, whether passed by him in the first instance or in appeal from the order of a Deputy Collector, is modified or reversed by the Commissioner, a further appeal shall lie to the Board[1] in the following cases only, namely, when the order of the Collector was one—

(*a*) directing under section 38, that any proprietor shall pay more than his proportionate share of the cost of a partition, when the excess which he is ordered to pay exceeds five hundred rupees,

(*b*) made under section 50, adopting a record of existing rents and other assets of land,

(*c*) directing, under section 85, that any sum exceeding five hundred rupees shall be levied from the proprietor of an estate not under partition, or

(*d*) confirming, amending or rejecting, under section 86, an allotment made under section 84.

Stay of proceedings pending appeal or revision

115. When an appeal is presented under section 111 section 112 or section 113, or when the Board[1] calls, under section 114, sub-section (*1*), for the record of a case, the proceedings shall not be stayed pending the appeal or revision [illegible] ity so directs

Revision of proceedings connected with giving possession

116. [illegible] ty Collector, Collector or [illegible] ossession to the proprie- [illegible] in pursuance of section

[1] As to the present constitution and powers of the Board of Revenue, *see* the Bengal Board of Revenue Act, 1913 (Ben Act 2 of 1913), *post*, p 779

of 1897.]

(Chapter XI.—Miscellaneous—Secs. 117-119.)

94 may be set aside or amended by the Collector, Commissioner or Board[1], as the case may be, provided that the revising authority shall, within three months from the date on which such possession has been given, make an order to the effect that such proceedings are under its consideration

(2) Every such order shall, when made by the Commissioner or the Board[1], be communicated to the Collector of the district, and the Collector shall cause all such orders to be published by notification.

117. The Collector, the Commissioner and the Board[1] respectively may pass such orders as they think fit in respect of the payment of the costs of any appeal which is made to them respectively under this Act

Orders as to costs on appeal

118. If, in any case in which a Collector or other officer exercises jurisdiction under this Act, any person is guilty of the offence of giving or fabricating false evidence, or of forgery, as defined in the Indian Penal Code,[2] or of abetting any of those offences, such Collector or other officer shall have the same powers in respect of such offence, and of the person charged with committing the same as are vested by the Code of Criminal Procedure, 1882,[3] in a Civil Court when any such offence is committed before or against such Court, or when a document believed to be a forgery is given in evidence in any proceedings in such Court

Powers of officers exercising jurisdiction under this Act with regard to false evidence or forgery

119. No order—

Certain orders under this Act not liable to be contested or set aside by civil suit

(a) refusing to admit an application for partition, or to carry out a partition, on any of the grounds mentioned in section 11, or

(b) made under section 20, section 30, Chapter V, Chapter VII, Chapter VIII, Chapter IX (except section 81), Chapter X, section 107 or section 117,

shall be liable to be contested or set aside by suit in any Court, or by any means other than those expressly provided in this Act

Provided that—

(i) any person claiming a greater interest in lands which were held in common tenancy between two or more estates than has been allotted to him by an order under section 81 or section 86, or

(ii) any person who is aggrieved by an order made under section 88,

may bring a suit in a Court of competent jurisdiction to modify or set aside such order

[1] As to the present constitution and powers of the Board of Revenue see the Bengal Board of [illegible] 13 (Ben. Act [illegible] of 1913), post, p. [illegible]

[illegible] Procedure [illegible] (5 [illegible] 5 (1) thereof in the

Board to be guided by order or instructions of Lieutenant Governor

120. In the execution of the duties imposed on the Board[1] by this Act, the Board[1] shall be guided by such orders or instructions as they may from time to time receive from the Lieutenant-Governor[2]

Power of Board to make rules

121. The Board[1] may from time to time, with the previous sanction of the Lieutenant-Governor[2] make rules,[3]

(*a*) prescribing, in pursuance of section 18 clause (*g*), particulars to be contained in applications for partitition,

(*b*) for regulating the appointment of persons under section 35 and the scale of their remuneration, and for enabling an officer making a partition to keep himself informed of the proceedings of such persons and to exercise a proper control over them,

(*c*) for determining the costs of partitions,

(*d*) for fixing, for the purposes of section 37, the instalments in which and the times at which the cost of making partition shall be levied from proprietors,

(*e*) for fixing a general scale of fees for the levy of charges from proprietors of estates under partition, when the formation of an Estates Partition Fund has been directed under section 42,

(*f*) for fixing the instalments in which and the times at which the said fees shall be levied from proprietors,

(*g*) generally, for regulating the receipts, disbursements and management of any Estates Partition Fund formed under the said section 42,

(*h*) prescribing what entries in the record of existing rents and other assets shall be read out and, when necessary, corrected or added to, under section 47, sub-section (*2*),

(*i*) prescribing the manner in which and the period for which copies of survey papers and records of existing rents and other assets shall be published under section 48,

(*j*) prescribing the entries in survey papers or records of existing rents and other assets of which copies shall be furnished to landlords and tenants under the said section 48,

(*k*) prescribing the form of partition papers to be delivered under section 53 or prepared under section 57, and

(*l*) generally, for the guidance of officers in conducting partitions or making a survey and preparing a record of existing rents and other assets of land under this Act.

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[1] As to the present constitution and powers of the Board of Revenue see the Bengal Board of Revenue Act 1913 (Ben Act 2 of 1913) post, p 779

Orissa and

1st March,

BENGAL ACT 1 OF 1898

(THE CALCUTTA POLICE ACT, 1898)[1]

(25th May, 1898)

An Act to extend certain portions of the Police Act, 1861[2] to the Town and Suburbs of Calcutta.

Whereas it is expedient to extend certain portions of the Police Act, 1861[2] as amended by the Police Act (1861) Amendment Act, 1895,[3] to the Town and Suburbs of Calcutta, subject to the modifications hereinafter appearing;

And whereas, the said Acts having been passed by the Governor General of India in Council, the previous sanction of the Governor General has been obtained, under section 5[4] of the Indian Councils Act, 1892, to the passing of this Act;

It is hereby enacted as follows:—

1. (*1*) This Act may be called the Calcutta Police Act, 1898; Short title

(*2*) (*Commencement*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

2. The portions[5] of the Police Act 1861[2] as amended by the Police Act (1861) Amendment Act, 1895,[3] which are specified in the first column of the Schedule to this Act are hereby extended, subject to the modifications[5] set forth in the second column of that Schedule, to— Extension of portions of the Police Act 1861 to the Town and Suburbs of Calcutta

(*1*) the town of Calcutta, as defined in section 3 of the Calcutta Police Act, 1866[6], and

(*2*) the area to which Bengal Act 2 of 1866[7] (*an Act to provide for the better regulation of the Police within the Suburbs of the Town of Calcutta*) for the time being applies by virtue of any notification published under section 1 thereof

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[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons *see* Calcutta Gazette 1898, Part IV p 533 for Report of Select Committee *see ibid* p 537 and for Proceedings in [illegible]

p [illegible]

[6] Printed in Vol II of this Code

[7] Printed in Vol II of this Code

(The Schedule)

THE SCHEDULE.

Portions[1] of the Police Act 1861, extended	Modifications[1]
1	2
So much of section 1 as— (a) defines "property", "person" and "month", and (b) relates to number and gender	*
Section 15	In sub-section (1) *after* "them" *insert* "or of any persons resorting to such area". In sub-section (2) *for* "The Inspector General of Police or other officer authorized by the Local Government in this behalf" *read* "the Commissioner of Police". In sub-section (4) *for* "The Magistrate of the district" *read* "Such officer as the Local Government may appoint in this behalf or, in the suburbs, the Magistrate of the 24 Parganas" and *for* "the Magistrate's" *read* "such officer's or Magistrate's".
Section 15A	In sub-section (1) *after* "them" *insert* "or of any persons resorting to such area", *omit* the words "being an inhabitant of such area," and *for* "the Magistrate of the district or of the sub-division of a district within which such area is situated" *read* "the officer appointed under section 15, sub-section (4) or in the suburbs the Magistrate of the 24 Parganas". In sub-section (2), *for* "the Magistrate of the district" *read* "the officer appointed as aforesaid, or in the suburbs the Magistrate of the 24 Parganas", and *for* clause (c) *read* — "(c) assess the proportion in which the same shall be paid— (i) by the inhabitants of the area specified in the proclamation (other than the applicant), or (ii) by the inhabitants of the area of which the persons resorting as aforesaid are inhabitants, or (iii) by the inhabitants of both the said areas, who shall not have been exempted from liability to pay under the next succeeding sub-section."

5 of

[1] The portions of Act 5 of 1861 and the modifications here referred to are set out in the Appendix, *post*, p. 162.

(*The Schedule*)

1	2
Portions[1] of the Police Act 1861 extended	Modifications[1]
	In the proviso to sub section (2) *before* Magistrate *insert* said officer or and *for* such area *read* the area specified in the proclamation '
	In sub section (4) *for* the Magistrate of the district *read* ' the officer appointed as aforesaid or the Magistrate of the 24 Parganas
Section 16	In sub section (*1*) *for* 'sections 13 14, 15 and 15A *read* sections 15 and 15A
	In sub sections (*1*) and (*3*) *for* ' the Magistrate of the district *read* the officer appointed under section 15 sub section (*4*) or the Magistrate of the 24 Parganas as the case may be
	In sub section (*1*) *for* in the manner provided by sections 386 and 387 of the Code of Criminal Procedure 1882 for the recovery of fines ' *read* ' under the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and execution of warrants for the levy of fines
	In sub section (*2*) *for* All moneys paid or recovered under sections 13 14 and 15 shall be credited to a fund to be called the General Police Fund and *read* All moneys paid or recovered under section 15
	In sub section (*3*) *for* ' that section *read* the said section 15A
Section 16 sub sections (*2*) and (*3*)	In sub section (*2*) *omit* the words When the whole or any part of this Act shall have been so extended
	In clause (*a*) of sub section (*2*) *for* Magistrates *read* the officer appointed under section 15 sub section (*4*), the Magistrate

[1] The portions of Act 5 of 1861 and the modifications here referred to are set out in the Appendix *post* p 162

APPENDIX

Sections of the Police Act, 1861, in the form in which they are extended to the Town and Suburbs of Calcutta by the Calcutta Police Act, 1898 (Ben. Act I of 1898)[1]

Definition

1. The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is to say —

* * * * * * *

the word "property" shall include any movable property, money or valuable security;

words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number;

words importing the masculine gender shall include females;

the word "*person*" *shall include a company or corporation*;

the word "month" shall mean a calendar month.

* * * * * * *

Quartering of additional police in disturbed or dangerous areas at cost of inhabitants

15. (*1*) It shall be lawful for the Local Government, by proclamation to be notified in the official Gazette and in such other manner as the Local Government shall direct to declare that any area subject to its authority has been found to be in a disturbed or dangerous state or that from the conduct of the inhabitants of such area or of any class or section of them, or of any person resorting to such area it is expedient to increase the number of police.

(*2*) It shall thereupon be lawful for the Commissioner of Police, with the sanction of the Local Government, to employ any police force in addition to the ordinary fixed complement, to be quartered in the area specified in such proclamation as aforesaid.

(*3*) Subject to the provisions of sub-section (*5*) of this section, the cost of such additional police force shall be borne by the inhabitants of such area described in the proclamation.

(*4*) Such officer as the Local Government may appoint in this behalf, or, in the suburbs, the Magistrate of the 24 Parganas after such inquiry as he may deem necessary, shall apportion such cost among the inhabitants who are, as aforesaid liable to bear the same, and who shall not have been exempted under the next succeeding sub-section. Such apportionment shall be made according to such officer's or Magistrate's judgment of the respective means within such area of such inhabitants.

(*5*) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to bear any portion of such cost.

(*6*) Every proclamation issued under sub-section (*1*) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time or continued from time to time for a further period or periods as the Local Government

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Award of compensation to sufferers from misconduct of inhabitants or persons interested in land

15A. [illegible] the
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area or any class or section of them, or of any persons resorting to such area, it shall be lawful for any person who claims to have suffered injury from such misconduct to make within one month from the date of the injury or such shorter period as may be prescribed an application for compensation to the officer appointed under section 15, sub-section (*1*) or, in the suburbs the Magistrate of the 24 Parganas.

(*2*) It shall thereupon be lawful for the officer appointed as aforesaid or, in the suburbs, the Magistrate of the 24 Parganas with the sanction of the Local Government, after such inquiry as he may deem necessary, and whether any additional police force has or has not been quartered in such area under the last preceding section to—

(*a*) declare the persons to whom injury has been caused by or has ensued from such misconduct;

[1] Printed *ante*, p. 159

APPENDIX—*concluded*

Sections of the Police Act, 1861, in the form in which they are extended to the Town and Suburbs of Calcutta by the Calcutta Police Act, 1898 (Ben Act 1 of 1898)—concld

(*b*) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them, and

(*c*) assess the proportion in which the same shall be paid—

(*i*) by the inhabitants of the area specified in the proclamation (other than the applicant) or

(*ii*) by the inhabitants of the area of which the persons residing as aforesaid are inhabitants, or

(*iii*) by the inhabitants of both the said areas,

who shall not have been exempted from liability to pay under the next succeeding sub section

Provided that the said officer or Magistrate shall not make any declaration or assessment under this sub section unless he is of opinion that such injury as aforesaid has arisen from a riot or unlawful assembly within the area specified in the proclamation and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury

(*3*) It shall be lawful for the Local Government, by order, to exempt any person or class or section of such inhabitants from liability to pay any portion of such compensation

(*4*) Every declaration or assessment made or order passed by the officer appointed as aforesaid or the Magistrate of the 24 Parganas under sub section (*2*) shall be subject to revision by the Commissioner of the Division or the Local Government but save as aforesaid shall be final

(*5*) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this section

(*6*) *Explanation* —In this section the word ' inhabitants ' shall have the same meaning as in the last preceding section

16. (*1*) All moneys payable under sections 15 and 15A shall be recoverable by the officer appointed under section 15 sub section (*4*) or the Magistrate of the 24 Parganas, as the case may be, under the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and execution of warrants for the levy of fines or by suit in any competent Court

Recovery of moneys payable under sections 15 and 15A, and disposal of same when recovered

(*2*) All moneys paid or recovered under section 15 shall be applied to the maintenance of the police force under such orders as the Local Government shall pass

(*3*) All moneys paid or recovered under section 15A shall be paid by the officer appointed under section 15, sub section (*4*) or the Magistrate of the 24 Parganas as the case may be, to the persons to whom and in the proportions in which the same are payable under the said section 15A

* * * * * * * *

46. (*2*) The Local Government may from time to time by notification in the official Gazette, make rules consistent with this Act —

Power to make rules

(*a*) to regulate the procedure to be followed by the officer appointed under section 15 sub section (*4*) the Magistrate and police officers in the discharge of any duty imposed upon them by or under this Act

(*b*) to prescribe the time manner and conditions within and under which claims for compensation under section 15A are to be made the particulars to be stated in such claims, the manner in which the same are to be verified, and the proceedings (including local inquiries if necessary) which are to be taken consequent thereon and

(*c*) generally, for giving effect to the provisions of this Act

(*3*) All rules made under this Act may from time to time be amended added to or cancelled by the Local Government

BENGAL ACT 2 OF 1898

[THE CALCUTTA PORT (AMENDMENT) ACT 1898][1]

(7th September, 1898)

An Act to amend the Calcutta Port Act, 1890[2]

of

Whereas it is expedient to amend the Calcutta Port Act, 1890[2], — Preamble

It is hereby enacted as follows —

1. (*1*) This Act may be called the Calcutta Port (Amendment) Act, 1898 — Short title

(*2*) (*Commencement*) *Rep by the Repealing and Amending Act 1903 (1 of 1903) now known as the Amending Act 1903—vide Act 10 of 1914 Sch II*

2. For section 112 of the Calcutta Port Act 1890[2], the following shall be substituted namely — — Amendment of Bengal Act 3 of 1890 s 112

112 [Printed in Vol II of this Code]

3. In sub-section (*2*) of section 113 of the said Calcutta Port Act, 1890[2], for the word two the word 'three shall be substituted — Amendment of Bengal Act 3 of 1890 s 113

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BENGAL ACT 3 OF 1898

[THE BENGAL TENANCY (AMENDMENT) ACT 1898]

CONTENTS

BENGAL ACT 3 OF 1898

[THE BENGAL TENANCY (AMENDMENT) ACT, 1898][1]

(2nd November, 1898)

An Act to amend sections 30, 31, 39, 52 and 119 and Chapter X of the Bengal Tenancy Act, 1885.[2]

Whereas it is expedient to amend sections 30, 31, 39, 52 and 119 and Chapter X of the Bengal Tenancy Act, 1885,[2] in the manner hereinafter appearing;

And whereas, the said Act having been passed by the Governor General of India in Council, the previous sanction of the Governor General has been obtained, under section 5[3] of the Indian Councils Act, 1892, to the requisite amendments being made by an Act of the Lieutenant-Governor of Bengal in Council;

And whereas the sanction of the Governor General has similarly been obtained to the amendment of the Court-fees Act, 1870,[4] which is proposed by section 7 (105) of this Act;

It is hereby enacted as follows:—

1. (*1*) This Act may be called the Bengal Tenancy (Amendment) Act, 1898; — Short title

(*Commencement*) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

2. For clause (*a*) of section 30 of the Bengal Tenancy Act, 1885[2], the following shall be substituted, namely:— — Amendment of Act 8, 1885, section 30

(*a*) [Printed in Vol. I of this Code.]

3. After clause (*d*) of section 31 of the said Act[5] the following shall be inserted, namely:— — Amendment of Act 8, 1885, section 31

(*e*), (*f*) [Printed in Vol. I of this Code.]

4. After section 31 of the said Act[5] the following shall be inserted, namely:— — Insertion of sections 31A and 31B in Act 8, 1885

31A, 31B. [Printed in Vol. I of this Code.]

5. After the word "correct," in sub-section (*6*) of section 39 of the said Act[5], the words "and may presume that the prices shown in the lists prepared for any year prior to the passing of this Act are correct" shall be inserted. — Amendment of Act 8, 1885, section 39 (6)

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[1] LEGISLATIVE PAPERS.—For Statements of Objects and Reasons, see Calcutta Gazette, 1897, Pt. IV, p. 107; for Report of Select Committee, see ibid., 1898, Pt. IV, p. 515; and for Proceedings in Council, see ibid., 1897, Supplement, pp. 1213, 1688; ibid., 1898, Supplement, pp. 5[illegible], 6[illegible]0 and 76[illegible].

(*Secs 6-11*)

Amendment of Act 8 1885 section 52

6. To section 52 of the said Act[1] the following shall be added namely —

(5) [Printed in Vol I of this Code]

New Chapter X for Act 8 1885

7. For Chapter X of the said Act[1] the following shall be substituted namely —

Ch X [Printed in Vol I of this Code]

Validation of publication of past records

8. All records published under section 105 of the Bengal Tenancy Act 1885[2], before the commencement of this Act, 8 of
whether in draft or final form shall be deemed to have been duly published

Effect of settlements of rent and decisions by Revenue-officers made before the commencement of this Act

9. (1) Every settlement of rent or decision of a dispute by a Revenue-officer under section 104 or section 106 of the Bengal 8 of
Tenancy Act, 1885[2] before the commencement of this Act, in respect of which no appeal has, before the commencement of this Act, been preferred to the Special Judge appointed under section 108 of that Act, shall have the force and effect of a decree of a Civil Court in a suit between the parties and shall be final

Provided that an appeal shall lie to the District Judge from any such settlement or decision which was made or given within thirty days before the commencement of this Act, if the appeal be presented within thirty days from the date of such settlement or decision

(2) The provisions of the Code of Civil Procedure[3] relating 14 of
to appeals shall as nearly as may be, apply to all such appeals

Amendment of Act 8 1885, section 119

10. In section 119 of the Bengal Tenancy Act, 1885[2] the 8 of 1
words and figures "sections 103 A, 103 B, 106, 107, 108, 109 and 109 A" shall be substituted for the words and figures "sections 105 to 109, both inclusive"

11. (*Repeal of Bengal Act 5, 1894*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act 1903—vide Act 10 of 1914, Sch II*

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[1] The Bengal Tenancy Act, 1885 It is printed in Vol I of this Code

[2] ...

... re-enacted by the Code of Civil Procedure 1908 (5 ... be taken to be made to that Code—see s 158 thereof,

BENGAL ACT I OF 1899

(THE BENGAL GENERAL CLAUSES ACT, 1899)

CONTENTS

BENGAL ACT 1 OF 1899

(THE BENGAL GENERAL CLAUSES ACT, 1899) [1]

(18th January, 1899.)

An Act for further shortening the language used in Bengal Acts, and for other purposes.

Whereas it is expedient further to shorten the language used in Bengal Acts, and to make certain other provisions relating to those Acts;

It is hereby enacted as follows:—

PRELIMINARY

1. This Act may be called the Bengal General Clauses Act, 1899. Short title

2. *(Repeal of Bengal Act 5 of 1867.) Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

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[1] APPLICATION OF THE VARIOUS GENERAL CLAUSES ACTS.—The General Clauses Act 18[illegible] applies for the most part only to Acts of the Governor General in Council and to Regulations made under the Government of India Act 1870 (33 & 34 Vict c 3) printed in the Collection of Statutes relating to India 1913 Vol I p 4[illegible]3 but s 1[illegible] applies also to Indian enactments of all kinds including among others Bengal Acts The section runs as follows —

"12 W[illegible]

Duty to be taken *pro rata* [illegible]

[illegible] in every section except ss 27 and 30 to [illegible]

[illegible] of Parliament [illegible] Punjab and Burma Councils have effect only in the Provinces in which they were respectively passed

The Eastern Bengal and Assam General Clauses Act 1909 (E B & A Act 1 of 1909) has effect in Eastern Bengal (*vide* paragraph 2 of this footnote above) and in Western Bengal as applying only to certain E B & A Acts extended to that area by the Bengal Laws Act 1911 (Ben Act 1 of 1911) printed *post* p 85[illegible]

(*General Definitions —Sec 3*)

GENERAL DEFINITIONS

Definitions

3. In this Act and in all Bengal Acts made after the commencement of this Act [1] unless there is anything repugnant in the subject or context —

Abet

(*1*) abet ' with its grammatical variations and cognate expressions shall have the same meaning as in the Indian Penal Code [2] 45 of

Act

(*2*) [3] act used with reference to an offence or a civil wrong shall include a series of acts and words which refer to acts done shall extend also to illegal omissions

Affidavit

(*3*) [4] affidavit shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing

Barrister

(*4*) [5] barrister shall mean a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland

Bengal

(*5*) Bengal shall mean the territories within British India for the time being under the administration of the Lieutenant Governor of Bengal [6]

Bengal Act

(*6*) Bengal Act shall mean an Act made by the Lieutenant Governor of Bengal in Council under [8] [the Indian Councils Act 1861 or] the Indian Councils Acts 1861 [9] and 1892 [1] [11] [or the Indian

Some of tle d fn on tl sec on apply al o to Ben l Act ma le b tween the 1st J ne 1867 n i the com ncem t of the p e ent Ac e 4 p s p 1 8 For two f the defin ons apply ng o ch Ac s s p s) 1 8

[2] S e Ac 4 of 18 1 7 1 8 and 108A n t e Gene al Ac s 1834 67 E1 1900 pp 272 274

[3] Cf s t Ind n P nal Co e (Ac 4 of 1860) n e Gene al Act 1834 67 Ed 1909 1 2

177 and 1 8

Ind an Oath Act

3 in Order XIX

(General Definitions —Sec. 3)

Councils Acts, 1861, 1892 and 1909, or made by the Governor in Council of Fort William in Bengal under the Indian Councils Acts, 1861,[1] 1892[2] and 1909[3]]

(7) "Chapter" shall mean a Chapter of the Act in which the word occurs; 'Chapter'

(8) "Collector" shall mean, in Calcutta, the Collector of Calcutta, and elsewhere the chief officer in charge of the revenue administration of a district, "Collector

(9) [4] "commencement," used with reference to an Act, shall mean the day on which the Act comes into force, "Commencement"

(10) "Commissioner" shall mean the chief officer in charge of the revenue administration of a division, Commissioner

(11) [5] "Consular officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul and any person for the time being authorized to perform the duties of consul-general, consul, vice-consul or consular agent, 'Consular officer

(12) "District Judge' shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, District Judge

(13) [6] "document" shall include any matter written[7], expressed or described upon any substance by means of letters, figures or marks or by more than one of those means, which is intended to be used or which may be used, for the purpose of recording that matter, Document

(14) "enactment" shall include a Regulation (as hereinafter[8] defined) and any Regulation of the Bengal Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid, Enactment'

(15) "father' in the case of anyone whose personal law permits adoption, shall include an adoptive father, 'Father"

(16) "financial year" shall mean the year commencing on the first day of April, "Financial year"

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[1] ... 1913 Vol I p 313

[2] ... 1913 Vol II p 803

[3] ... 1913 Vol II p 1849

[4] ... 179

[5] For a similar definition see the Consular Salaries and Fees Act 1891 (54 & 55 Vict., c 36) s 3

[6] For similar definitions see the Indian Penal Code (Act 45 of 1860) s 29 in the General Acts 1834-67, Ed 1909 p 255, and the Indian Evidence Act 1872 (1 of 1872) s 3 in the General Acts 1868-78 Ed 1909 p 201

[7] As to construction of expressions referring to writing see clause (4?) of this section post p 178

[8] See clause (35) of this section post p 177

'Good faith' (17) [1] a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not;

"Government" (18) "Government" or "the Government" shall include the Local Government[2] as well as the Government of India;

Government of India (19) "Government of India" shall mean the Governor General in Council or, during the absence of the Governor General from his Council, the President in Council, or the Governor General alone, as regards the powers which may be lawfully exercised by them or him respectively,

Her Majesty or the Queen (20) [3] "Her Majesty" or "the Queen" shall include her successors,

Immovable property (21) [4] "immovable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth,

Imprisonment (22) "imprisonment" shall mean imprisonment of either description [5] as defined in the Indian Penal Code, 45 of

Local authority (23) [6] "local authority" shall mean a Municipal Committee, District Board, body of Port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund,

Local Government (24) "Local Government" shall mean the Lieutenant-Governor of Bengal,[7]

Magistrate (25) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure[8] for the time being in 5 of force,

Master (of a ship) (26) [9] "master," used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship;

of 1899.]

(*General Definitions —Sec. 3*)

(27) "month" shall mean a month reckoned according to the British calendar, "Month"

(28) "movable property"[1] shall mean property of every description, except immovable property, "Movable property"

(29) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing[2], "Oath"

(30) [3] "offence" shall mean any act or omission made punishable by any law for the time being in force; "Offence"

(31) "Part" shall mean a part of the Act in which the word occurs; "Part"

(32) [4] "person" shall include any company or association or body of individuals, whether incorporated or not, "Person"

(33) "public nuisance" shall mean a public nuisance as defined in the Indian Penal Code[5], "Public nuisance"

(34) "registered," used with reference to a document, shall mean registered in British India under the law[6] for the time being in force for the registration of documents, "Registered"

(35) "Regulation" shall mean a Regulation made under the Government of India Act 1870[7], "Regulation"

(36) [8] "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment, "Rule"

(37) "Schedule" shall mean a schedule to the Act in which the word occurs, "Schedule"

(38) "Scheduled District" shall mean a "Scheduled District" as defined in the Scheduled Districts Act, 1874[9], "Scheduled District"

(39) "section" shall mean a section of the Act in which the word occurs, "Section"

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[1] ... property see s 163 of the ...

[2] ... ante p 174 and see the foot note ... Code of Criminal Procedure ...

... plicable to Bengal Acts made ... ... p 178

... 1834 67 Ed 1909 p 316 ... the Code of Criminal Procedure ...

... 1908) in the General Acts ... p 560

[7] Printed in the Collection of Statutes relating to India 1913 Vol I p 473

[8] For provisions as to rules see ss 21 to 26, 29 and 30 post pp 181 to 184

[9] Printed in the General Acts, 1868 78 Ed 1909 p 441

(*General Definitions.—Secs 4, 5*)

"Ship

(*40*) [1] "ship" shall include every description of vessel [2] used in navigation not exclusively propelled by oars,

"Sign

(*41*) "sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark" with its grammatical variations and cognate expressions,

"Son

(*42*) "son," in the case of anyone whose personal law permits adoption, shall include an adopted son,

Sub section

(*43*) "sub-section" shall mean a sub-section of the section in which the word occurs;

Swear

(*44*) [3] "swear," with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;

Vessel

(*45*) [4] "vessel" shall include any ship [5] or boat or any other description of vessel used in navigation·

Will

(*46*) [6] "will" shall include a codicil and every writing making a voluntary posthumous disposition of property,

Writing

(*47*) expressions referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, and

Year

(*48*) "year" shall mean a year reckoned according to the British calendar [7]

Application of certain of the foregoing definitions to previous Bengal Acts

4. The definitions in section 3 of the following words, that is to say, "affidavit," "Magistrate," "month," "oath," and "swear," apply also, unless there is anything repugnant in the subject or context, to all Bengal Acts made between the first day of June, 1867, and the commencement of this Act

Continuance of certain definitions for purposes of previous Bengal Acts

5. In all Bengal Acts made between the first day of June, 1867, and the commencement of this Act, unless there is anything repugnant in the subject or context,—

(*1*) "land" includes houses and buildings and corporeal hereditaments and tenements of any tenure, unless

71° in

s 71',

of 1860), s 48,

of 1865) s 3,

where there are words to exclude houses and buildings or to restrict the meaning to tenements of some particular tenure; and

(2) "person" includes any incorporated company or incorporated association of persons.

General Rules of Construction

6. (*1*) Where any Bengal Act is not expressed to come into operation on a particular day,[1] then it shall come into operation on the day on which it is first [2]published in the Calcutta Gazette after having received the assent of the Governor General.

Coming into operation of Bengal Acts.

(*2*) Unless the contrary is expressed, a Bengal Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

7. In this Act and in every Bengal Act made after the commencement of this Act, the date of such publication as is mentioned in section 6, sub-section (*1*) shall be printed above the title of the Act, and shall form part of the Act.

Printing of date on which Act is published after having received the assent of the Governor General.

8. Where this Act, or any Bengal Act made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

Effect of repeal.

(*a*) revive anything not in force or existing at the time at which the repeal takes effect; or

(*b*) affect the previous operation of any enactment so repealed or anything duly done[3] or suffered thereunder; or

(*c*) affect any right, privilege, obligation or liability[3] acquired, accrued or incurred under any enactment so repealed; or

(*d*) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(*e*) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

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[1] For power to make rules or by-laws or to issue orders with respect to certain matters [illegible]

[illegible]

[3] As to the continuance of orders, etc., made under an enactment which is repealed and re-enacted, see s. 25, *post*, p. 183.

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

Revival of repealed enactments.

9. (*1*) In any Bengal Act made after the commencement of this Act it shall be necessary, for the purpose of reviving either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

(*2*) This section applies also to all Bengal Acts made between the first day of June, 1867, and the commencement of this Act.

Construction of references to repealed enactments.

10. Where this Act, or any Bengal Act made after the commencement of this Act, repeals and re-enacts with or without modifications, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

Commencement and termination of time.

11. In any Bengal Act made after the commencement of this Act it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from," and, for the purpose of including the last in a series of days or any other period of time, to use the word "to."

Computation of time.

12. Where by any Bengal Act made after the commencement of this Act any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:

Provided that nothing in this section shall apply to any *act or proceeding to which the Indian Limitation Act, 1877*[1], 15
applies.

Measurement of distances.

13. In the measurement of any distance for the purposes of any Bengal Act made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Gender and number.

14. In all Bengal Acts, unless there is anything repugnant in the subject or context,—

(*1*) words importing the masculine gender shall be taken to include females; and

(*2*) words in the singular shall include the plural, and *vice versâ*.

POWERS AND FUNCTIONARIES

Powers conferred on the Government to be exercisable from time to time

15. Where, by any Bengal Act made after the commencement of this Act, any power is conferred on the Government, then that power may be exercised from time to time as occasion requires

Power to appoint to include power to appoint ex officio

16. Where, by any Bengal Act, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office

Power to appoint to include power to suspend or dismiss

17. [1] Where, by any Bengal Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power

Substitution of functionaries

18. In any Bengal Act made after the commencement of this Act it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed

Successors

19. In any Bengal Act made after the commencement of this Act it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations

Official chiefs and subordinates

20. In any Bengal Act made after the commencement of this Act it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior

PROVISIONS AS TO ORDERS, RULES, ETC MADE UNDER ENACTMENTS

Construction of orders etc issued under Bengal Acts

21. Where, by any Bengal Act, a power to issue any order, scheme, rule, by-law, notification or form is conferred, then expressions used in the order, scheme, rule, by-law, notification or form, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context,

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[1] As to section 17 *see* the Notes on Clauses appended to the Statement of Objects and Reasons, in Calcutta Gazette 1898, Pt IV p 571

(Provisions as to Orders Rules etc made under Enactments —Secs 22 24)

have the same respective meanings as in the Act conferring the power

Power to make to include power to add to amend vary or rescind orders etc

22. Where by any Bengal Act a power to make orders rules by laws or notifications is conferred then that power includes a power exerciseable in the like manner and subject to the like sanction and conditions (if any) to add to amend vary or rescind any orders rules by laws or notifications so made

Making of rules or by laws and issuing of orders between publication and commencement of Bengal Act

23 Where by any Bengal Act which is not to come into operation on the day on which it is first published in the Calcutta Gazette after having received the assent of the Governor General a power is conferred to make rules or by laws or to issue orders with respect to the application of the Act or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder or with respect to the person by whom or the time when or the place where or the manner in which or the fees for which anything is to be done under the Act

then that power may be exercised at any time after the Act has been published as aforesaid but rules by laws or orders so made or issued shall not take effect till the commencement of the Act

Provisions applicable to making of rules or by laws after previous publication

24 Where by any Bengal Act a power to make rules or by laws is expressed to be given subject to the condition of the rules or by laws being made after previous publication then the following provisions shall apply namely —

(*1*) the authority having power to make the rules or by laws shall before making them publish a draft of the proposed rules or by laws for the information of persons likely to be affected thereby,

(*2*) the publication shall be made in such manner as that authority deems to be sufficient or if the condition with respect to previous publication so requires in such manner as the Local Government prescribe

(*3*) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration

(*4* the authority having power to make the rules or by laws and where the rules or by laws are to be made with the sanction approval or concurrence of another authority that authority also shall consider any objection or suggestion which may be received by the authority having power to make the rules or by laws from any person with respect to the draft before the date so specified

(*5*) the publication in the Calcutta Gazette of a rule or by law purporting to have been made in exercise of a

(Provisions as to Orders, Rules, etc, made under Enactments.—Miscellaneous —Secs 25-28)

power to make rules or by-laws after previous publication shall be conclusive proof that the rule or by-law has been duly made

25. Where any enactment is, after the commencement of this Act, repealed and re-enacted by a Bengal Act with or without modification, then, unless it is otherwise expressly provided, any [1][appointment], order, scheme, rule, by-law, notification or form [2][made or] issued under the repealed enactment shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been [2][made or] issued under the provisions so re-enacted, unless and until it is superseded by any [1] [appointment], order, scheme, rule by-law, notification or form [2] [made or] issued under the provisions so re enacted

Continuation of orders, etc issued under enactments repealed and re enacted

MISCELLANEOUS

26. Sections 63 to 70 of the Indian Penal Code[3] and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines[4] shall apply to all fines imposed under any Bengal Act or any rule or by-law made under any Bengal Act, unless the Act, rule or by-law contains an express provision to the contrary

Recovery of fines

27. Where an act or omission constitutes an offence[5] under two or more enactments then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence

Provision as to offences punishable under two or more enactments

28. Where any Bengal Act made after the commencement of this Act authorizes or requires any document to be served by post whether the expression 'serve" or either of the expressions 'give' or 'send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre paying and posting by registered post a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post

Meaning of service by post

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1 The word appointment in s 25 was inserted by the Repealing and Amending Act, 1903 (1 of [illegible]

2 [illegible] the same Act

4 [illegible]

5 [illegible] Acts 1898 03 [illegible] 1909 pp 160 161

[illegible] 177

Citation of enactments

29. (1) In any Bengal Act, and in any rule, by-law, instrument or document made under, or with reference to any Bengal Act, any enactment may be cited by reference to the title or short title (if any)[1] conferred thereon or by reference to the number and year thereof and any provision in an enactment may be cited by reference to the section or sub section of the enactment in which the provision is contained

(2) In this Act, and in any Bengal Act made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation

Saving for previous Acts rules and by laws

30. Where any Act, rule or by-law made after the commencement of this Act continues or amends any Acts, rules or by laws made before the commencement of this Act, the foregoing sections of this Act shall not by reason merely of such continuance or amendment affect the construction of such Acts rules or by-laws

[1] Short titles have been conferred on all the enactments printed in this Code

BENGAL ACT 2 OF 1899

(THE BENGAL CIVIL COURT AMINS ACT 1899)[1]

(25th October 1899)

An Act to repeal Civil Courts Amins Act, 1856, in Bengal

Whereas it is expedient to repeal the Civil Courts Amins Act 1856 so far as it applies to Bengal

It is hereby enacted as follows —

1. The Civil Courts Amins Act 1856 [1] is hereby repealed throughout Bengal — Repeal of Act 1? of 1856

Provided as follows —

(*a*) this repeal shall not affect any appointment already made under the said Act and

(*b*) the persons holding such appointments shall perform such duties as may be required of them by the District Judge

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[1] SHO T T TLE — Th s slo t t tle was g ven by the Repeal ng and Amend ng Act 1903 (1 of 1 03) Scl I—*see* Vol I of th s Co le Th s Act s now kn wn as the Amending Act 1903— *r de* Act 10 of 1914 Sch II

cutta Gazette 1899 pp 1560 1907 *b d*

r Prov nce of Bengal
II 1 tracts Regula

BENGAL ACT 3 OF 1899

(THE CALCUTTA MUNICIPAL ACT 1899)

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BENGAL ACT 3 OF 1899

(THE CALCUTTA MUNICIPAL ACT, 1899) [1]

(22nd November, 1899).

An Act to amend the law relating to the Municipal Affairs of the Town and Suburbs of Calcutta and to authorize the extension of the same to the Town of Howrah

Whereas it is expedient to amend, in the manner hereinafter appearing, the law relating to the municipal affairs of the Town and Suburbs of Calcutta, and to authorize the extension of the same to the Town of Howrah

And whereas the previous sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892[2], to the provisions of this Act which affect Acts passed by the Governor General of India in Council,

It is hereby enacted as follows —

PART I.

CHAPTER I

PRELIMINARY.

1. *(1)* This Act may be called the Calcutta Municipal Act 1899 Short title and extent

(2) Except as is hereinafter otherwise expressly provided it applies only to Calcutta

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1 LEGISLATIVE PAPERS—For Statement of Objects and Reasons see Calcutta Gazette 1898 Pt IV p 511 for Preliminary Report of Select Committee see ibid 18[illegible] Pt IV p [illegible] for [illegible] 1898 [illegible] 1899

(7)—

Certain provisions of the Act apply to Hastings which is not included in Calcutta as so defined—see sections 649 et seq post p 418

Section [illegible]08 applies to both Calcutta and Howrah and the Act generally or any portion of it

(*Commencement*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II.*

* * * * * [1]

Repeal of enactments

2. *(1)*[2] Bengal Act 2 of 1888 (hereinafter called "the Calcutta Municipal Consolidation Act"), and so much of Act 12 of 1888 (*an Act to supplement certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act*) as relates to the Calcutta Municipal Consolidation Act, shall be repealed. B m A 1888 Ben A 1888

(2) All budgets passed and assessments, valuations, measurements and divisions made under any enactment hereby repealed or under any enactment repealed thereby shall (so far as they are consistent with this Act and are in force at the commencement of this Act) be deemed to have been respectively passed and made under this Act[2]

Definitions

3. For the purposes of this Act, unless there is anything repugnant in the subject or context,—

Bazar — (1) "*bazar*" means any place of trade (other than a market) where there is a collection of shops or warehouses

Budget grant — (2) "budget-grant" means a sum entered on the expenditure side of a Budget Estimate which has been finally adopted, and includes also any sum by which a budget-grant is at any time increased by a transfer under section 126, clause (*c*),

Building line — (3) "building-line" means a line (in rear of the street alignment) up to which the main wall of a building abutting on a street may lawfully extend;

Building of the warehouse class — (4) "building of the warehouse class" means a warehouse, factory, manufactory, brewery or distillery, and any other masonry building exceeding in cubical extent one hundred and fifty thousand cubic feet which is not a "public building" as defined in this section;

Bustee — (5) "*bustee*" means an area containing land occupied by or for the purposes of any collection of huts—

(*a*) standing on a plot of land not less than ten *cottahs* in area and bearing one number in the assessment-book, or

(*b*) standing on two or more plots of land which are adjacent to one another and exceed in the aggregate one *bigha* in area;

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[1] The proviso to section 1 (relating to elections and appointments under the Act before the ... ending Act, 1903 (1 of 1903)—see ... he Amending Act 1903—vide Act ... Act, 1903 (1 of 1903), and are omitted

[2] For further savings see the Bengal General Clauses Act, 1899 (Ben Act 1 of 1899) sections 8 25 ante, pp 179 and 183

(6) "*bustee* land" means land in a *bustee* which is let out for the building of huts under an arrangement by which the tenant of the land is the owner of the hut; — *Bustee land*

(7) "Calcutta" means, subject to the exclusion or inclusion of any local area by notification under section 637, the area described in Schedule I; — *Calcutta*

(8) "carriage" means any wheeled vehicle, with springs or other appliances acting as springs, which is used for the conveyance of human beings, and includes a *jinrickshaw*, a bicycle and a tricycle; — *Carriage*

(9) "cart" means any cart, hackery or wheeled vehicle, with or without springs which is not a "carriage" as defined in this section; — *Cart*

(10) "connected privy" means a privy (other than a water-closet) which is directly connected with a sewer; — *Connected privy*

(11) the expression "cubical extent," when used with reference to the measurement of a building, means the space contained within the external surfaces of its walls and roof and the upper surface of the floor of its lowest or only storey; — *Cubical extent*

(12) "dangerous disease" means— — *Dangerous disease*

(*a*) cholera, plague, small-pox, diphtheria, enteric fever and typhoid fever, and

(*b*) any other epidemic, endemic or infectious disease which the Local Government may, by notification in the Calcutta Gazette, declare to be a dangerous disease for the puposes of this Act;

(13) "depot" means a place where bulky articles are stored, whether for sale or otherwise, in quantities exceeding 50 maunds; — *Depot*

(14) "domestic building" includes a dwelling-house and any other masonry building which is neither a "building of the warehouse class" nor a public building," as defined in this section, nor a place exclusively used for private worship; — *Domestic building*

(15) a supply of water for domestic purposes shall not be deemed to include a supply— — *Domestic purposes*

(*a*) for animals or for washing carriages where such animals or carriages are kept for sale or hire,

(*b*) for any trade, manufacture or business

(*c*) for fountains,

(*d*) for watering gardens or streets

(*e*) for any ornamental or mechanical purpose

(*f*) for building purposes, or

(*g*) for flushing purposes;

(16) "drain" includes a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a — *Drain*

channel and any other device for carrying off sullage, sewage, offensive matter, polluted water, rain-water or sub-soil water,

"Drug." (*17*) "drug" includes medicine for internal or external use,

"Dwelling house." (*18*) "dwelling-house" means a masonry building constructed, used or adapted to be used wholly or principally for human habitation,

"Habitable room." (*19*) "habitable room" means a room constructed or adapted to be inhabited,

"House drain." (*20*) "house-drain" means any drain of, and used for the drainage of, one or more buildings or premises, and made merely for the purpose of communicating therefrom with a municipal drain,

"House-gully." (*21*) "house-*gully*" means a passage or strip of land constructed, set apart or utilised for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom, and includes the air space above such land,

"Hut." (*22*) "hut" means any building no material portion of which above the plinth level is constructed of masonry,

"Inhabited room." (*23*) "inhabited room" means a room in which some person passes the night, or which is used as a living room, and includes a room with respect to which there is a probable presumption (until the contrary is shown) that some person passes the night therein or that it is used as a living room.

"Market." (*24*) "market" includes any place where persons periodically assemble for the sale of meat, fish, fruit vegetables or live-stock,

"Masonry building." (*25*) "masonry building" means any building other than a hut,

"Municipal drain." (*26*) "municipal drain" means a drain vested in the Corporation;

"Municipal market." (*27*) "municipal market" means a market belonging to or maintained by the Corporation,

"Municipal slaughter house." (*28*) "municipal slaughter-house" means a slaughter-house belonging to or maintained by the Corporation,

"Nuisance." (*29*) "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing, or which is or may be dangerous to life or injurious to health or property,

"Occupier." (*30*) "occupier" means any person for the time being paying, or liable to pay, to the owner the rent or any portion of the rent of the land or building in

(Part I—Chapter I—Preliminary—Sec 3)

respect of which the word is used, and includes an owner living in his own house or hut,

(31) "offensive matter" means dung dirt, putrid or putrifying substances, and filth of any kind which is not included in 'sewage' as defined in this section, — Offensive matter

(32) "owner" includes the person for the time being receiving the rent of any land or building or of any part of any land or building, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or who would so receive the same if the land, building or part thereof were let to a tenant — Owner

(33) "party-wall" means a wall forming part of a building and used or constructed to be used for the support and separation of adjoining buildings belonging to different owners or constructed or adapted to be occupied by different persons, — Party wall

(34) the word "platform" when used with reference to a privy means the surface containing the aperture through which the sewage passes into the receptacle or sewer, — Platform

(35) "private street" means any street road, square, court, alley passage or riding path which is not a 'public street' as defined in this section, but does not include a pathway made by the owner of a building on his own land to secure access to, or the convenient use of such building, — Private street

(36) "public building" means a masonry building constructed, used or adapted to be used— — Public building

(a) as a place of public worship, or as a school, college or place of instruction (not being a dwelling-house so used), or as a hospital, workhouse, public theatre public hall, public concert-room, public ball-room, public lecture room, public library or public exhibition room, or as a public place of assembly, or

(b) for any other public purpose or

(c) as an hotel, lodging-house, home, refuge or shelter, where the building exceeds in cubical extent two hundred and fifty thousand cubic feet or has sleeping accommodation for more than one hundred persons,

(37) "public street" means any street road, square, court, alley, passage or riding path whether a thoroughfare or not, over which the public have a right of way, and includes— — Public street

(a) the roadway over any public bridge or causeway

(b) the footway attached to any such street, public bridge (other than the Howrah bridge) or causeway, and

(c) the drains attached to any such street, public bridge or causeway,

and, where there is no drain attached to any such street shall be deemed to include also, unless the contrary is shown, all land up to the outer wall of the premises abutting on the street, or, if a street alignment has been fixed, then up to such alignment,

Railway (38) "railway" includes a tramway,

Re-erect (39) the expression "re erect," when used with reference to a building, includes—

(a) the re construction of a building after more than one-half its cubical extent has been taken down or burnt down or has fallen down,

(b) the conversion of one or more huts or temporary structures into a masonry building, and

(c) the conversion into a place for human habitation of any building not originally constructed for human habitation

Explanation—Clause (a) applies whether the re construction takes place (after the commencement of this Act) entirely at the same time or by instalments at different times and whether more than half the cubical extent has (after the commencement of this Act) been taken down or burnt down or has fallen down, at the same time or at different times

Reside (40) (a) a person shall be deemed to "reside" in any dwelling-house or hut which, or some portion of which he sometimes uses although not uninterruptedly, as a sleeping-apartment, and

(b) a person shall not be deemed to cease to "reside" in any such dwelling-house or hut merely because he is absent from it or has elsewhere another dwelling-house or hut in which he resides, if there is the liberty of returning to it at any time and no abandonment of the intention of returning to it,

Rubbish (41) "rubbish" means dust ashes broken bricks, mortar, broken glass, kitchen or stable refuse, and refuse of any kind which is not "offensive matter" as defined in this section

Service privy (42) "service-privy" means a privy which is cleansed by hand but does not include a bath-room used as a privy,

(43) "sewage" means night soil and other contents of privies, urinals, cesspools or drains; "Sewage"

(44) "sky-sign" means any word, letter, model sign, device or other representation, in the nature of an advertisement, announcement or direction, which is supported on or attached to any post, pole, standard, framework or other support wholly or in part upon, over or above any building or structure, and which is wholly or in part visible against the sky from any point in any street or public place, and includes— "Sky sign"

(a) every part of such support, and

(b) any balloon, parachute or similar device employed wholly or in part for the purposes of any advertisement or announcement on, over or above any building, structure or erection of any kind, or on or over any street or public place,

but shall not be deemed to include—

(i) any flagstaff pole vane or weathercock, unless adapted or used wholly or in part for the purposes of any advertisement or announcement,

(ii) any sign on any board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, on the cornice or blocking-course of any wall, or to the ridge of a roof, if such contrivance be of one continuous face and not open work and do not extend in height more than three feet above any part of such wall, parapet or bridge, or

(iii) any representation which relates exclusively to the business of a Railway Company, and which is placed wholly upon or over any railway, railway station, yard, platform or station approach, or premises belonging to a Railway Company, and which is also so placed that it could not fall into any street or public place;

(45) "slaughter-house" means any place used for the slaughter of cattle, sheep, goats, kids or pigs for the purpose of selling the flesh thereof as meat, "Slaughter house"

(46) "street" means a public or private street; and "Street"

(47) "street alignment" means a line dividing the land comprised in and forming part of a street from the adjoining land. "Street alignment"

4. The General Committee may decide whether any particular land is or is not a "*busete*" or '*bustee* land' as defined in section 3 and their decision shall be final. Power to decide whether land is a *bustee* or *bustee* land

PART II.—Constitution and Government.

CHAPTER II.

MUNICIPAL AUTHORITIES

Enumeration of Municipal authorities

5. The Municipal authorities charged with carrying out the provisions of this Act are—

(*1*) a Corporation,

(*2*) a General Committee of the Corporation, and

(*3*) a Chairman of the Corporation.

Constitution of the Corporation

Constitution and incorporation of the Corporation

6. The Corporation shall consist of the Chairman and fifty Commissioners to be elected or appointed as hereinafter provided, and shall, by the name of "the Corporation of Calcutta," be a body corporate and have perpetual succession and a common seal, and may by such name sue and be sued.

Property vested in the Corporation

7. All property, movable and immovable, and all interests of whatsoever nature or kind therein, now vested in or held in trust for the Commissioners of Calcutta, with all rights of whatsoever description now used, enjoyed or possessed by the said Commissioners, shall be vested in the Corporation.

Commissioners how to be elected or appointed

8. (*1*) Twenty-five of the Commissioners referred to in sections 6 shall be elected at ward elections.

(*2*) The remaining Commissioners shall be appointed as follows, namely:—

(*a*) four by the Bengal Chamber of Commerce,

(*b*) four by the Calcutta Trades Association,

(*c*) two by the Commissioners for the Port of Calcutta, and

(*d*) fifteen by the Local Government.

(*3*) The Local Government shall make rules[1] to regulate the appointment of Commissioners under clauses (*a*), (*b*) and (*c*) of sub-section (*2*).

Constitution of the General Committee

Constitution of the General Committee

9. (*1*) The General Committee shall consist of twelve members and the Chairman, who shall be President of the Committee.

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[1] For a reference to rules made under section 8 (3), see the Bengal Local Statutory Rules and Orders, 1912 Vol I, Pt VI.

(Part II.—Constitution and Government.—Chapter II.—Municipal Authorities.—Secs. 10-12.)

(2) The said twelve members shall be Commissioners, and shall be respectively elected and appointed as follows, that is to say:—

(a) four shall be elected by the Ward Commissioners,
(b) four shall be elected by the Commissioners appointed under clauses (a), (b), (c) and (d) of section 8, and
(c) four shall be appointed by the Local Government.

(3) The Local Government may make rules to regulate the election of members under clauses (a) and (b) of sub-section (2).

10. Every election or appointment of a Commissioner to be a member of the General Committee shall have effect for a period of one year: Term of office of ordinary members.

Provided as follows:—

(a) if any Commissioner so elected or appointed does not accept office as such member, or dies, resigns or becomes disqualified to act or incapable of acting as such member before the expiration of the prescribed period, the vacancy shall be filled up, as soon as conveniently may be, by making a new election or appointment under section 9, sub-section (2), and any Commissioner so newly elected or appointed shall be a member of the Committee for the period during which such first-mentioned Commissioner would have been or remained a member;

(b) the General Committee in existence when the Commissioners cease to hold office as such shall continue to hold office until such time as a new General Committee is formed under section 9, notwithstanding that the members of the said Committee or some of them may no longer be Commissioners.

Appointment of the Chairman.

11. (1) The Local Government shall from time to time appoint a proper person to be Chairman of the Corporation. Appointment and removal of Chairman.

(2) The Chairman may be removed from his office by the Local Government at its discretion and shall be removed from his office if his removal be recommended by a resolution which has been passed at a special meeting and in favour of which not less than two-thirds of the Commissioners present at the meeting have voted.

12. (1) The Chairman shall receive such salary as may from time to time be fixed by the Local Government. Chairman's salary and house-rent allowance.

(2) Unless a suitable official residence is provided for the Chairman by the Corporation, the Local Government may, if it thinks fit, direct the payment to him of a house-rent allowance not exceeding five hundred rupees *per mensem*, in addition to his salary.

Functions of the several Municipal Authorities.

Respective functions of the municipal authorities.

13. (*1*) The respective functions of the several municipal authorities shall be such as are specifically prescribed by or under this Act.

(*2*) If any doubt arises as to the municipal authority to which any particular function pertains, the Chairman shall refer the matter to the Local Government, whose decision shall be final.

(*3*) Except as is in this Act otherwise expressly provided, the municipal government of Calcutta vests in the Corporation.

Special functions of the Corporation.

14. In addition to the other duties and powers conferred or imposed on them by or under this Act or any other Act for the time being in force,—

(*1*) it shall be the duty of the Corporation—

(*a*) to devote to the completion and extension of drainage works throughout Calcutta, and the opening out and improvement of *bustees*, not less than two *lakhs* of rupees annually, or such smaller sum as the Local Government may approve, to be raised as provided by section 128; and

(*b*) to devote to the permanent and progressive improvement of the area newly added to Calcutta by the Calcutta Municipal Consolidation Act[1] not less than three *lakhs* of rupees annually from the receipts of the General Fund, the Water-supply Fund and the Lighting Fund: Ben. Act 2 of 1888.

Provided that the instalments of interest and Sinking Fund payable on any capital sum expended for the improvement of the said area shall be taken as part of the said three *lakhs* of rupees:

Provided also that, if more than three *lakhs* of rupees be spent for the improvement of the said area in any year, the excess may be deducted from the amount to be spent in the next following year; and

(*2*) the Corporation may, in their discretion, provide from time to time, either wholly or partly, for all or any of the following matters, namely:—

(*i*) the planting and preservation of trees in streets and public places;

(*ii*) the construction, alteration, maintenance and adornment of public halls, offices and other buildings under the control of the Corporation or required for municipal purposes;

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[1] Ben. Act 2 of 1888 was repealed by the present Act—see s. 2, *ante*, p. 220.

(*iii*) the laying out and maintenance of squares and gardens;

(*iv*) the survey of buildings and lands, and the preparation of plans;

(*v*) the construction and maintenance of hospitals and alms houses;

(*vi*) vaccination;

(*vii*) *the promotion of primary and technical education*;

(*viii*) the provision of free libraries;

(*ix*) with the previous sanction of the Local Government, the payment of contributions to the cost incurred on the occasion of any public ceremony or entertainment held in Calcutta;

(*x*) the payment of contributions to the Commissioners of any neighbouring municipality for expenditure on sanitary purposes; and

(*xi*) any other matter which is likely to promote the public health, safety or convenience or the carrying out of this Act.

15. Subject, whenever it is in this Act expressly so directed, to the approval or sanction of the Corporation or the General Committee, as the case may be, and subject also to all other restrictions, limitations and conditions imposed by this Act, the entire executive power for the purpose of carrying out the provisions of this Act shall vest in the Chairman, who shall also— Special functions of the Chairman.

(*a*) perform all the duties and exercise all the powers specifically imposed or conferred upon him by this Act;

(*b*) prescribe the duties of, and exercise supervision and control over, the acts and proceedings of all municipal officers and servants, and, subject to the provisions of Chapter VI, dispose of all questions relating to the service of the said officers and servants and their pay, privileges and allowances; and

(*c*) on the occurrence or the threatened occurrence of any sudden accident or unforeseen event, involving or likely to involve extensive damage to any property of the Corporation or danger to human life, take such immediate action as the emergency shall appear to him to justify or to require, reporting forthwith to the General Committee and to the Corporation, when he has done so, the action he has taken and his reasons for taking the same, and

(*Part II—Constitution and Government—Chapter II—Municipal Authorities—Secs 16 17*)

the amount of cost if any, incurred or likely to be incurred in consequence of such action when such cost is not covered by a current budget grant

Power of General Committee to authorize the Chairman to take action in anticipation of their approval sanction consent or concurrence

16. (*1*) In any case in which it is provided by or under this Act that the Chairman may take action subject to the approval sanction consent or concurrence of the General Committee such Committee may by resolution in writing authorize him to take such action in anticipation of their approval sanction consent or concurrence as the case may be subject to such conditions (if any) as may be specified in such resolution

(*2*) Whenever the Chairman in pursuance of any such resolution takes any action in anticipation of the approval sanction consent or concurrence of the General Committee he shall forthwith inform the Committee of the fact

Annual administration report and statement of accounts by Chairman

17. (*1*) The Chairman shall as soon as may be after each first day of April have prepared a detailed report of the municipal administration of Calcutta during the previous financial year together with a statement showing the amounts of the receipts and disbursements respectively credited and debited to the respective Municipal Funds during the said year and the balance at the credit of each of the said Funds at the close of the said year

(*2*) The Chairman shall incorporate with his said report and statement—

(*a*) a *report for the same period from each head of a* department subordinate to him and

(*b*) a statement showing the receipts and expenditure from borrowed funds and the balances of such funds then in hand

and shall cause the same to be printed

(*3*) After examination and review of the said printed reports and statements by the General Committee and the Corporation the Chairman shall add to the compilation printed copies of such of the appendices attached to the reports of the several heads of departments if any as the General Committee may direct and a printed copy of the General Committee's and Corporation's reviews

and a copy of the complete compilation shall be forwarded as soon as may be after the thirtieth day of June to the usual or last known local place of abode of each Commissioner and to the Local Government

Provided that if the review by the General Committee or the review by the Corporation be not completed by the said thirtieth day of June the Chairman shall forward the other documents to the Local Government forthwith and shall forward such review to the Local Government afterwards

of 1899.]

(Part II—Constitution and Government—Chapter II—Municipal Authorities—Sec 18)

Provided further that such documents shall not be forwarded to the Local Government until they have been for seven clear days before the General Committee and for a like period before the Corporation

(4) Copies of all the aforesaid documents shall be delivered to any person requiring the same, on payment of such reasonable fee for each copy as the Chairman, with the approval of the General Committee, may determine

18. (1) The Chairman may, by general or special order[1] in writing, delegate to any municipal officer any of the Chairman's powers, *duties or functions under this Act or any rule,* by-law or regulation made hereunder, except those conferred or imposed upon or vested in him by the following sections or sub sections of this Act, namely — Delegation of cert in of Chairman s functions to municipal officers

section 33,	section 465,
„ 53,	„ 466,
„ 77,	„ 472,
„ 80,	„ 473,
„ 81,	„ 476,
„ 90, sub-section (4),	„ 477,
„ 99,	„ 478,
„ 113,	„ 485,
„ 117,	„ 488,
„ 118,	„ 489,
„ 119, sub section (3),	„ 494,
„ 120,	„ 502,
„ 247, sub-section (1),	„ 504,
„ 247, sub-section (2),	„ 509,
„ 256, sub-section (2),	„ 510,
„ 267, sub-section (1),	„ 511,
„ 284,	515,
„ 290,	518,
„ 291	524,
„ 292, sub-section (2)	525,
„ 296,	526, sub-section (2),
„ 299	540,
„ 300,	542,
„ 426	543
„ 427	545
„ 430,	586 sub-section (2),
„ 445,	586 sub-section (3),
„ 459,	586 sub-section (5),
„ 460,	611,
„ 463,	„ 633
„ 464,	

[1] For a reference to orders made under section 18 see the Bengal Local Statutory Rules and Orders 1912 Vol I [illegible]

(Part II—Constitution and Government—Chapter II—Municipal Authorities—Sec 19)

Provided as follows —

(a) the Chairman shall not delegate his power under section (?) sub section (3) to make appointments to offices carrying a salary of more than one hundred rupees *per mensem*,

(b) the Chairman shall not delegate to any municipal officer his power under section 70 to fine reduce suspend or dismiss any employé or his power under section 74 to grant leave of absence and leave allowances to any employé unless such employé was appointed by such officer by virtue of a delegation of the Chairman's powers of appointment conferred by section (?)

(c) the Chairman shall not delegate his power under section 86 to make on behalf of the Corporation any contract involving an expenditure exceeding one thousand rupees

(d) when by any order made under this section any power to enter premises between sunset and sunrise is delegated to any municipal officer the name of such officer must be specified in the order as well as his official designation

(e) when the Chairman by any order made under this section delegates to any municipal officer any power or duty which is exercisable or is required to be with the sanction shall send a copy

(2) The exercise or discharge by any municipal officer of any powers duties or functions delegated to him under sub section (1) shall be subject to such conditions and limitations (if any) as may be prescribed in the said order and also to control and revision by the Chairman

Exercise of functions to be subject to sanction of the necessary expenditure

19. The exercise or performance by any municipal authority of any power conferred or duty imposed by or under this Act which will involve expenditure shall except in any case specified in the proviso to section 115 be subject to the following conditions namely —

(a) that such expenditure so far as it is to be incurred in the year in which such power is exercised or duty performed must be provided for under a current budget grant and

(b) that if the exercise of such power or the performance of such duty involves or is likely to involve expenditure

*(Part II—Constitution and Government—Chapter II—
Municipal Authorities—Secs 20-22)*

for any period or at any time after the close of the said year liability for such expenditure shall not be incurred without the sanction of the Corporation

Provided that clause (b) shall not apply where the proposed expenditure is covered by a current budget grant and is such that it can be discontinued in the next year's budget

Control by Local Government over Municipal Authorities

20 When any project is framed by any municipal authority for the execution of any work or series of works the entire estimated cost of which amounts to one *lakh* of rupees or more then notwithstanding that the cost may be included in a Budget Estimate as finally adopted under Chapter IX — Sanction of Local Government required to projects costing over Rs 1,00,000

(*a*) the work shall not be commenced until the project has been sanctioned by the Local Government and

(*b*) if any material change be made in the project after it has been so sanctioned such change shall not be carried into effect unless and until it is sanctioned by the Local Government

21. The Local Government may require the Chairman to furnish it with— Power of Local Government to require returns etc

(*a*) any return statement estimate statistics or other information regarding any matter under the control of any municipal authority

(*b*) a report on any such matter or

(*c*) a copy of any document in his charge

22. (*1*) The Local Government may on receipt of any information depute any officer or officers to make an inspection or examination of any department office service work or thing under the control of any municipal authority and to report to it the result of such inspection or examination Power to depute officers to make inspection or examination and report

(*2*) Any officer so deputed may for the purpose of making such inspection or examination inspect the condition of any part of Calcutta and may require the Chairman—

(*a*) to produce any record correspondence plan or other document which is in his possession or under his control as Chairman or which is recorded or filed in his office or in the office of any municipal officer or servant

(*b*) to furnish any return plan estimate statement account or statistics or

(c) to furnish a report by himself, or to obtain a report from any head of a department subordinate to him and furnish the same with his own remarks thereon

(3) Every requisition made under sub-section (2) shall be complied with by the Chairman without unreasonable delay.

Power to require municipal authority to take action

23. (1) If on receipt of any document furnished under section 21 or any report submitted under section 22, the Local Government is of opinion—

(a) that any of the duties imposed on any municipal authority by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner, or

(b) that adequate financial provision has not been made for the performance of any such duty,

the Local Government may, by written order, direct the municipal authorities, or any of them, within a period to be specified in the order—

(i) to make arrangements to its satisfaction for the proper performance of the duties referred to in clause (a) or to make financial provision to its satisfaction for the performance of any such duty, as the case may be, or

(ii) to show cause to the satisfaction of the Local Government against the making of such arrangements or provision, as the case may be

(2) Any municipal authority affected by an order made under sub-section (1) may, within thirty days from the receipt of the order, transmit through the Local Government a petition of appeal to the Government of India, praying that the order be withdrawn

(3) No action directed by any such order shall be suspended in consequence of the transmission of any such petition, unless the Government of India, upon receipt of the petition, so direct

Procedure where municipal authority fails to take action

24. (1) If, within the period fixed by any order issued under section 23, any action directed under clause (i) of that section has not been duly taken, and cause has not been shown as aforesaid, the Local Government may, by order,—

(a) appoint some person to take the action so directed,

(b) fix the remuneration to be paid to him, and

(c) direct that such remuneration and the cost of taking such action shall be defrayed out of the Municipal Funds, and if necessary, that any one or more of the

rates or other taxes authorized by Part IV shall be levied or increased, but not so as to exceed any *maximum* prescribed by that Part.

(*2*) The person appointed under sub-section (*1*) may for the purpose of taking the action directed as aforesaid, exercise any of the powers conferred on any municipal authority by or under this Act which are specified in this behalf in the order issued under sub-section (*1*)

(*3*) With the previous sanction of the Government of India, the Local Government may, in addition to or instead of directing under sub-section (*1*) the levy or increase of any rates or other taxes, direct, by notification in the Calcutta Gazette, that any sum of money which may in its opinion be required for giving effect to any order issued under that sub section be borrowed by way of debenture on the security of all or any of the said rates or other taxes at such rate of interest and upon such terms as to the time of re-payment and otherwise as may be specified in the notification

(*4*) The provisions of sections 131 to 141 shall apply to any loan raised in pursuance of sub section (*3*)

CHAPTER III

Appointment of Vice-Chairman and Deputy Chairman

25. (*1*) The Corporation, at a special meeting to be held for the purpose, may from time to time appoint, for such period as they may think fit, a proper person to be Vice-Chairman of the Corporation Appointment, salary and removal of Vice Chairman

(*2*) The Vice-Chairman shall receive such salary as may from time to time be fixed by the Corporation, not being more than fifteen hundred nor less than one thousand rupees *per mensem*

(*3*) Every such appointment and salary shall be subject to the approval of the Local Government

(*4*) The Vice-Chairman shall not be removed from his office, otherwise than at the end of the term for which he was appointed, except in accordance with a resolution which has been passed at a special meeting and in favour of which not less than two-thirds of the Commissioners present at the meeting have voted.

26. (*1*) The Local Government may, if it appears to it to be expedient so to do, appoint a proper person to be Deputy Chairman of the Corporation Appointment and salary of Deputy Chairman

(2) The Deputy Chairman shall receive such salary as may from time to time be fixed by the Local Government, not being more than fifteen hundred nor less than one thousand rupees *per mensem*

CHAPTER IV

SPECIAL PROVISIONS AS TO CHAIRMAN, VICE-CHAIRMAN AND DEPUTY CHAIRMAN

Prohibition of having share or interest in contract or employment with Corporation

27. (*1*) No person shall be eligible for the office of Chairman, Vice-Chairman or Deputy Chairman if he has, directly or indirectly, by himself or his partner or employer or employé, any share or pecuniary interest in any contract or employment with, by, or on behalf of, the Corporation

(*2*) If the Chairman Vice-Chairman or Deputy Chairman acquires, directly or indirectly as aforesaid, any share or interest as aforesaid otherwise than as Chairman, Vice-Chairman or Deputy Chairman as the case may be he shall cease to be Chairman, Vice-Chairman or Deputy Chairman as the case may be, and his office shall become vacant.

(*3*) Nothing in the foregoing sub-sections shall apply to any such share or interest as, under clause (*ii*) or clause (*iv*) of section 39, it is permissible for a Commissioner to have without being thereby disqualified for being a Commissioner

Indebtedness to disqualify for office

28. (*1*) No person shall be eligible for the office of Chairman, Vice-Chairman or Deputy Chairman if he is seriously indebted to any person

(*2*) If any person holding any of the said offices becomes so indebted, the authority which appointed him shall declare his office to be vacant

Contribution in respect of pension or leave-allowances of Government servant appointed to be Chairman, Vice Chairman or Deputy Chairman

29. When a servant of the Government is appointed to be Chairman, Vice-Chairman or Deputy Chairman the Corporation may pay in addition to his salary and house allowance (if any), any contribution which may for the time being be levied by the Government in respect of his pension or leave-allowances

Grant of pension or gratuity to Vice Chairman, or compassionate allowance to his family

30. When the Vice-Chairman is not a servant of the Government, the Corporation may, with the sanction of the Local Government, grant him a pension or gratuity on retirement, or grant a compassionate allowance to his family on his death.

(Part II.—Constitution and Government.—Chapter IV.—Special Provisions as to Chairman, Vice-Chairman and Deputy Chairman.—Secs. 31-34.)

31. The Chairman, the Vice-Chairman and the Deputy Chairman shall devote their whole time to the duties of their respective offices, and shall not engage in any other profession, trade or business whatsoever: Prohibition of engaging in other business, with certain exceptions.

Provided that—

(a) any civil or military officer in the service of the Government may hold the office of Chairman, Vice-Chairman or Deputy Chairman so long as he fills no office other than one of those specified in this section,

(b) the Chairman,[1] the Vice-Chairman or the Deputy Chairman may—

(i) hold the office of Commissioner under the Calcutta Port Act, 1890[2],

(ii) be a Member of the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations[3], or

(iii) with the sanction of the Corporation, hold the office of Chairman to any Public institution or any other honorary office.

32. The Chairman, the Vice-Chairman and the Deputy Chairman must reside in Calcutta. Place of residence.

33. The Chairman, the Vice-Chairman and the Deputy Chairman shall, except upon such holidays as are allowed by the Government, and unless prevented by sickness or other reasonable cause, attend daily at the municipal office for the transaction of business connected with or arising under this Act. Daily attendance at municipal office.

34. (1) The Vice-Chairman and the Deputy Chairman shall be subordinate to the Chairman, and, subject to his general direction and control, shall have the same authority as the Chairman, and shall exercise such of the powers and perform such of the duties of the Chairman as the Chairman may from time to time delegate to each of them, respectively. Functions and position of Vice-Chairman and Deputy Chairman.

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[1] The Chairman of the Corporation is a member of the Burial Board of Calcutta and the Suburbs—*see* the Calcutta Burial Boards Act, 1881 (Ben. Act 5 of 1881), s. 3, in Vol. II of this Code.

He is also a member and Chairman of the Muhammadan Burial Board of Calcutta—*see* the ... s Code ... ointed under s. 14 ... 1903 (10 of 1903) ... vement Act, 1911 ... ler the Calcutta

[2] Printed in Vol. II of this Code.

[3] The Council of the Lieutenant-Governor has been superseded by the Council of the Governor.

(2) The Chairman shall inform the Corporation and the General Committee of the powers and duties which he from time to time delegates to the Vice-Chairman or the Deputy Chairman

(3) Except as is in this Act otherwise expressly provided, the Vice-Chairman and the Deputy Chairman shall be subject to the same liabilities, restrictions and conditions as the Chairman

(4) All acts and things performed and done by the Vice-Chairman or the Deputy Chairman during his tenure of his office and in virtue thereof shall for all purposes be deemed to have been performed and done by the Chairman

Leave of absence to Chairman Vice Chairman or Deputy Chairman

35. (*1*) With the sanction of the Local Government, the Corporation may grant to the Chairman, Vice Chairman or Deputy Chairman such leave of absence as they think fit

(*2*) The allowance to be paid to the Chairman, Vice-Chairman or Deputy Chairman while absent on leave shall be of such amount, not exceeding his salary, as may be fixed in the case of the Chairman or Deputy Chairman, by the Local Government, and in the case of the Vice-Chairman by the Corporation

Provided that, if the Chairman, Vice Chairman or Deputy Chairman is a Government officer, the amount of such allowance shall be regulated by the rules for the time being in force relating to the leave-allowances of officers of his class

(*3*) Whenever leave of absence is granted to the Chairman or Deputy Chairman, the Local Government may appoint a person to act as Chairman or Deputy Chairman, as the case may be

(*4*) The salary and house-rent allowance (if any) of any person acting as Chairman under this section, and the salary of any person acting as Deputy Chairman under this section, shall be fixed by the Local Government, subject to the provisions of sections 12 and 26, respectively

(*5*) Whenever leave of absence is granted to the Vice-Chairman, the Corporation may, subject to the provisions of section 25, appoint a person to act as Vice-Chairman and fix his salary

(*6*) Any person appointed to act as Chairman, Vice-Chairman or Deputy Chairman shall exercise the powers and perform the duties conferred[1] by or under this Act or any other enactment for the time being in force on the Chairman, Vice-Chairman or Deputy Chairman, as the case may be, and shall be subject to the same liabilities restrictions and conditions as the Chairman, Vice-Chairman or Deputy Chairman, as the case may be

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[1] *Sic* *Read* conferred or imposed

CHAPTER V.

Election and Appointment of Commissioners

Qualifications of Voters and Commissioners

Municipal election roll

36. A municipal election-roll shall be prepared and published in the manner prescribed in the rules contained in Schedule IV.

Qualifications of voters at elections

37. (*1*) A person, or a company, body corporate, firm, Hindu joint-family or other association of individuals, shall not be entitled to vote at an election unless he or it is enrolled in the municipal election-roll as a voter of the ward for which such election is held

(*2*) A person shall not be entitled to be enrolled in the municipal election-roll as a voter of any ward unless such person is of the male sex, and has attained the age of twenty-one years, and resides or pays rates or other taxes under this Act in Calcutta, and—

(*i*) has his name entered in the assessment-book hereinafter prescribed as showing that he is—

(*a*) the owner and occupier of some land or building in Calcutta separately numbered and valued for assessment purposes at not less than one hundred and fifty rupees *per annum*, or

(*b*) the owner of some land or building in Calcutta separately numbered and valued for assessment purposes at not less than three hundred rupees *per annum*, or

(*c*) the occupier of some building in Calcutta separately numbered and valued for assessment purposes at not less than three hundred rupees *per annum*, or

(*ii*) has taken out a license under Class I Class II, Class III or Class IV of Schedule II for the year in which the election is held, or

(*iii*) has paid on his sole account and in his own name not less than twenty-four rupees either in respect of the consolidated rate levied under Chapter XII or in respect of taxes levied under Chapter XIII or Chapter XIV or in respect of both such rate and taxes, for the year immediately preceding that in which the election is held

Provided that, if such payment or any portion thereof has been made in respect of the consolidated rate, the name of such

person must be entered in the aforesaid assessment book in respect of the payment or portion

(3) A company body corporate firm Hindu joint family or other association of individuals shall not be entitled to be enrolled in the municipal election roll as a voter of any ward unless it pays rates or other taxes under this Act in Calcutta and has complied with the provisions prescribed for persons by clause (i) clause (ii) or clause (iii) of sub section (2)

Qualification for election as a Commissioner

38 A person shall not be qualified to be elected to be a Commissioner unless he is enrolled in the municipal election roll as a voter of some ward

Provided that if any company body corporate firm Hindu joint family or other association of individuals is enrolled in the said roll as a voter of a ward any one person duly authorized by power of attorney to represent such association shall be deemed to be qualified to be elected a Commissioner

Disqualifications for being a Commissioner

39 (1) A person shall be disqualified for being elected or appointed and for being a Commissioner if such person—

(*a*) is of the female sex or

(*b*) has been sentenced by any Court to transportation imprisonment or whipping for any non bailable offence such sentence not having been subsequently reversed or quashed and such person s disqualification on account of such sentence not having been removed by an order which the Local Government is hereby empowered to make if it thinks fit in this behalf or

(*c*) is an uncertificated bankrupt or an undischarged insolvent or

(*d*) is the Chairman or Vice Chairman or Deputy Chairman or a municipal officer or servant or a plumber licensed under this Act or

(*e*) is a Judge of a Court of Small Causes or a Municipal Magistrate or is acting in either of those capacities or

(*f*) has directly or indirectly by himself or by his partner or employer or any employe any share or interest in any contract or employment with by or on behalf of the Corporation

(2) But a person shall not be disqualified as aforesaid or be deemed to have any share or interest in such a contract or employment as aforesaid by reason only of his having a share or interest in—

(*i*) any lease sale or purchase of land or any agreement for the same or

(*ii*) any agreement for the loan of money or any security for the payment of money only, or

of 1899.]

(Part II.—Constitution and Government.—Chapter V.—Election and Appointment of Commissioners.—Secs. 40-43.)

(*iii*) any newspaper in which any advertisement relating to the affairs of the Corporation is inserted; or

(*iv*) any incorporated company which contracts with or is employed by the Chairman on behalf of the Corporation:

Provided that no Commissioner who has, directly or indirectly, by himself or by his partner or employer or any employé, a share or interest in any matter or thing described in this sub-section, or who has acted professionally on behalf of any person having such share or interest, shall vote or take any part in any proceeding relating to that matter or thing.

Persons becoming disqualified, or absenting themselves, to cease to be Commissioners.

40. Any Commissioner who—

(*a*) becomes disqualified for being a Commissioner for any reason mentioned in section 39, or

(*b*) absents himself during six successive months from the meetings of the Corporation, except from temporary illness or other cause to be approved by the Corporation,

shall cease to be a Commissioner, and his office shall thereupon be vacant.

Decision by Chief Judge of Small Cause Court of questions as to disqualification.

41. Whenever it is alleged that any Commissioner has become disqualified for office for any reason aforesaid, and such Commissioner does not admit the allegation,

or whenever any Commissioner is himself in doubt whether or not he has become disqualified for office,

such Commissioner or any other Commissioner may, and the Chairman at the request of the Corporation, shall, apply to the Chief Judge of the Court of Small Causes of Calcutta, and the said Judge, after making such inquiry and taking such evidence as he deems necessary, shall determine whether or not such Commissioner has become disqualified for being a Commissioner, and his decision shall be final.

Election of Commissioners under Bengal Act 2 of 1888.[1]

General election in March, 1900.

42. (*1*) A general election of Ward Commissioners shall be held under the Calcutta Municipal Consolidation Act[1] at such time during the month of March, 1900, as may be appointed by the Local Government.

(*2*) Notwithstanding anything contained in the said Act, only one Commissioner shall be elected for each ward.

Election of Commissioners under this Act.

Wards for purposes of election.

43. (*1*) For the purposes of the election of Ward Commissioners, Calcutta shall be divided into twenty-five wards, the

[1] Ben. Act 2 of 1888 was repealed by section 2 of the present Act, *see ante*, p. 270.

(Part II.—Constitution and Government.—Chapter V.—Election and Appointment of Commissioners.—Secs. 44-46.)

respective numbers, names and boundaries of which are specified in Schedule III.

(2) The Local Government may, on the recommendation of the Corporation, at any time, by notification in the Calcutta Gazette, alter the boundaries of any ward as specified in the said Schedule.

(3) The electors of each of the twenty-five wards may elect one Commissioner.

(4) Every person qualified to vote may give all the votes to which he is entitled in any ward to any candidate in such ward, or may distribute them amongst the candidates in such manner as he thinks fit

Ward in which votes to be given

44. (1) A person qualified to vote under sub-clause (a) or clause (iii) section 37 shall vote in the ward in which he resides or pays the rate or taxes there mentioned.

(2) A person qualified under sub-clause (b) of section 37 shall vote in the ward in which the land or building there referred to is situated.

(3) A person qualified under sub-clause (c) of section 37 shall vote in the ward in which he is an occupier.

(4) A person qualified under clause (ii) of section 37 shall, if he pays the consolidated rate direct to the Corporation for his place of business, vote in the ward in which his place of business is situated, and, if he does not pay the consolidated rate direct to the Corporation for any place of business, shall vote in the ward in which he resides.

Number of votes under section 37 sub clause (a) or clause (iii)

45. A person claiming to vote under sub-clause (a) or clause (iii) of section 37 shall not be entitled to vote under any other clause of that section, and may give only one vote in the ward in which he is entitled to vote under sub-section (1) of section 44

Number of votes under section 37, sub clause (b)

46. (1) A person qualified to vote under sub-clause (b) of section 37 may give one vote in each ward in which he is entitled to vote

(2) Every such person shall also have additional votes according to the following scale:—

	Rs	
if the aggregate annual value of all the lands and buildings owned by him in the ward is not less than	600	1 additional vote,
ditto	1,000	2 additional votes,
ditto	1,500	3 additional votes,
ditto	2,000	4 additional votes,
ditto	2,500	5 additional votes,
ditto	3,000	6 additional votes,
ditto	3,500	7 additional votes,
ditto	4,000	8 additional votes,
ditto	4,500	9 additional votes,
ditto	5,000	10 additional votes

(Part II.—Constitution and Government—Chapter V.—Election and Appointment of Commissioners.—Secs. 47-51.)

Number of votes under section 37 sub-clause (c).

47. *(1)* A person qualified to vote under sub-clause *(c)* of section 37 may give one vote in each ward in which he is entitled to vote.

(2) Every such person shall also have additional votes according to the following scale:—

if the aggregate annual value of all the buildings occupied by him in the ward is not less than	Rs. 600	1 additional vote.
ditto	1,000	2 additional votes.
ditto	1,500	3 additional votes.
ditto	2,000	4 additional votes.
ditto	2,500	5 additional votes.
ditto	3,000	6 additional votes.
ditto	3,500	7 additional votes.
ditto	4,000	8 additional votes.
ditto	4,500	9 additional votes.
ditto	5,000	10 additional votes.

Double votes where voter lives in his own house or hut.

48. A person living in his own house or hut shall be entitled to the votes assigned to him as owner, as well as to those assigned to him as occupier.

Number of votes under section 37 clause (ii).

49. *(1)* A person qualified to vote under clause *(ii)* of section 37 may, if he holds a license under Class IV of Schedule II, give one vote for the ward in which he may be entitled to vote under this qualification.

(2) If any such person holds a license under Class III, Class II or Class I of the said Schedule, he may give one, two or three votes, as the case may be, in addition to the vote which he might give if he held a license under Class IV of that Schedule.

Maximum number of votes.

50. A person may give as many votes as he is entitled to under sub-clauses *(b)* and *(c)* and clause *(ii)* of section 37 combined, up to a maximum of ten additional votes in any one ward:

Provided that no person shall give more than eleven votes in any one ward.

Meaning of "person" in sections 43 to 50.

51. In sections 43 to 50 the word "person" includes for the purposes of sub-clauses *(b)* and *(c)* and clause *(ii)* of section 37,—

(a) a company, body corporate, firm, Hindu joint-family or other association of individuals, when such association is entered in the assessment-book as owner of a building or land, or as occupier of a building, or is stated in a license to be the holder of the license, and

(b) a receiver or trustee, when he is entered or stated as aforesaid.

(Part II—Constitution and Government—Chapter V—Election and Appointment of Commissioners—Secs 52 57)

Government not to vote

52. No vote shall be given by the Government

Date of elections

53. *(1)* General elections of Commissioners shall be fixed by the Local Government to take place triennially on such days in the month of March as it may think fit

(2) Such elections shall be so fixed as to take place simultaneously in all the wards

(3) A general election shall be held in the year 1903

(4) Elections to fill casual vacancies shall be fixed by the Chairman to take place on such days as he may think fit as soon as conveniently may be after the occurrence of the vacancies

Conduct of ward elections

54 Elections shall be conducted in the manner prescribed in the rules contained in Schedule V

Publication of list of duly returned candidates

55 A list of duly returned candidates for the several wards shall be published by the Chairman in the Calcutta Gazette

Hearing of election petitions by Judge of High Court

56 *(1)* If there is any dispute as to whether any person whose name is entered in the list published under section 55 is qualified to be elected a Commissioner or if the validity of any election is questioned whether by reason of the improper rejection by the Chairman of a nomination or of the improper reception or refusal of a vote or for any other cause any person enrolled in the municipal election roll may at any time within eight days after the publication of the said list apply to a Judge of the High Court exercising original jurisdiction

Provided that no election shall be called in question on the ground that—

(a) the name of any person qualified to vote has been omitted from the municipal election roll or

(b) the name of any person not qualified to vote has been inserted in that roll or

(c) any direction given in Schedule IV or Schedule V has not been obeyed

(2) If the Judge sets aside an election or declares an election to be null and void a fresh election shall be held

(3) Every election not called in question in accordance with the foregoing provisions shall be deemed to have been to all intents a good and valid election

Bribery

57. *(1)* No person whether qualified to vote or claiming to be qualified to vote at an election under this Act shall accept or obtain or agree to accept or attempt to obtain for himself or for any other person any gratification whatever as a motive or reward for giving or forbearing to give his vote at any such election

(Part II—Constitution and Government—Chapter V—Election and Appointment of Commissioners—Secs 58-60)

(2) No person shall, by any gift or reward, or by any promise or agreement or security for any gift or reward, corrupt or procure or offer to corrupt or procure, any person to give or forbear to give his vote at any such election

(3) If any person is convicted of an offence against sub-section (1) or sub-section (2), he shall, for seven years from the date of his conviction, be disqualified from voting at any election under this Act and from being elected or appointed a Commissioner.

Appointment of Commissioners

58. (1) Appointments of Commissioners by the Bengal Chamber of Commerce, the Calcutta Trades Association and the Commissioners for the Port of Calcutta shall be made by the members for the time being of such Chamber or Association or the said Port Commissioners as the case may be, in such manner as may from time to time be determined at a meeting of the Chamber, Association or Port Commissioners, as the case may be, convened in accordance with rules made under section 8, sub-section (3) Appointments by Chamber of Commerce, Trades Association and Port Commissioners

(2) The Secretary to the said Chamber, Association or Port Commissioners shall make a return in duplicate to the Chairman setting forth the name in full of every person so appointed, and the said return shall be published by the Chairman in the Calcutta Gazette

59. (1) If there is no valid nomination for an election in any ward, or if the electors of any ward do not elect any Commissioner, the Local Government shall appoint a Commissioner Appointments by Local Government

(2) Appointments of Commissioners by the Local Government, whether made under sub-section (2) of section 8 or under sub-section (1) of this section, shall be made by notification in the Calcutta Gazette as soon as may be after the publication of the list of candidates returned at the general election, and such appointments shall take effect from the date from which the general election takes effect

Term of office of Commissioners, removals and filling of Casual Vacancies

60. * * * * * * *[1]

(2) Every Commissioner elected in pursuance of section 42, every Commissioner appointed after the publication of the list of candidates returned at the election held in pursuance of the Term of office of Commissioners

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[1] Sub section (1) (as to Commissioners elected or appointed before the commencement of the Act) which was repealed by the Repealing and Amending Act 1903 (1 of 1903) printed in Vol I of this Code is omitted

said section and every Commissioner elected or appointed after the first day of April, 1900, shall be elected or appointed, as the case may be, for a term of three years

Provided that, if any election or appointment be not made in due time, any Commissioner who would otherwise have vacated his office shall continue in office until such election or appointment be duly made

(*3*) At the expiration of the term or extended term mentioned in sub section (*2*), a Commissioner shall cease to hold office as such, but shall unless disqualified, be eligible for re election or re appointment

Removal of Commissioner

61. The Local Government may, if it thinks fit, on the recommendation of the Corporation, made after due inquiry, in which the Commissioner concerned shall have the right to be heard, remove any Commissioner elected or appointed under this Act, if such Commissioner has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct

Filling of casual vacancies

62. In case of the death, resignation, removal or disqualification of any Commissioner, a person shall forthwith be elected or appointed in his stead in the manner hereinbefore provided, and such person shall remain a Commissioner for the residue of the term of office of the Commissioner in whose stead he was elected or appointed

CHAPTER VI.

MUNICIPAL OFFICERS AND SERVANTS

Appointment and salary of principal officers

[1]**63.** (*1*) The Corporation, at a special meeting to be held for the purpose, may from time to time—

(*a*) appoint proper persons, for such periods respectively as they may think fit, to hold the respective offices of Engineer, Health Officer, Secretary, Assessor, Collector, Joint Collector Surveyor and License Officer, or to hold any office carrying a salary of more than one thousand rupees *per mensem* which the Local Government may authorize the Corporation to fill, and

(*b*) fix the monthly salary to be paid to persons so appointed

[1] As to the application of section 63 to the Registrar of Hackney-carriages, *see* the Calcutta Hackney carriage Act, 1891 (Ben Act 2 *of* 1891) s 5 (3) *ante* p 7

Provided as follows:—

(i) every appointment to the office of Engineer or Health Officer shall be subject to the approval of the Local Government;

(ii) the salary assigned to the Engineer, the Health Officer or any other officer appointed to hold an office carrying a salary of more than one thousand rupees *per mensem* shall be subject to the approval of the Local Government;

(iii) the salary of the Secretary shall not exceed one thousand rupees *per mensem*.

(2) Any two or more of the offices mentioned or referred to in sub-section (1) may be held by one person.

(3) The Secretary to the Corporation shall be also Secretary to the General Committee.

Appointment and salary of other higher officers.

64. The General Committee may from time to time—

(a) appoint proper persons, for such periods respectively as they may think fit to hold offices which carry a salary of more than three hundred rupees *per mensem* and are not mentioned or referred to in section 63, and

(b) fix the monthly salary to be paid to persons so appointed.

Appointment and salary of other officers and servants.

65. (1) The Chairman shall annually prepare and bring before the General Committee a statement setting forth the designations and grades of the officers and servants (other than those mentioned or referred to in sections 63 and 64 and other than employes who are paid by the day or whose pay is charged to temporary work) who should, in his opinion, be maintained, and the amount and nature of the salaries, fees and allowances which he proposes should be paid to each.

(2) The General Committee shall sanction such statement either as it stands or subject to such modifications as they may deem expedient, and provision for the same shall be entered in the Budget Estimate:

Provided that no new office the aggregate emoluments of which exceed two hundred rupees *per mensem* shall be created without the sanction of the Corporation.

(3) All appointments to offices specified in such statement as sanctioned shall be made by the Chairman.

Prohibition of having share or interest in contract or employment with Corporation.

66. (1) No person shall be eligible for employment as a municipal officer or servant if he has, directly or indirectly, by himself or his partner or employer or employé, any share or interest in any contract or employment with, by, or on behalf of, the Corporation.

(*Part II—Constitution and Government—Chapter VI—Municipal Officers and Servants—Secs 67-72*)

(*2*) If any municipal officer or servant acquires, directly or indirectly as aforesaid any share or interest as aforesaid, otherwise than as such officer or servant he shall cease to be a municipal officer or servant and his office shall become vacant

(*3*) Nothing in the foregoing sub-sections shall apply to any such share or interest as, under clause (*u*) or clause (*w*) of section 39 it is permissible for a Commissioner to have without being thereby disqualified for being a Commissioner

Indebtedness to disqualify for office under section 63

67. (*1*) No person shall be eligible for any office mentioned or referred to in section 63 if he is seriously indebted to any person

(*2*) If any person holding any of the said offices becomes so indebted the Corporation may declare his office to be vacant

Rules as to qualifications

68. (*1*) The Corporation may make rules[1] prescribing the qualifications of candidates for employment in the Health, Conservancy and Engineering Departments, respectively, of the Corporation

(*2*) It shall be the duty of the Chairman to see that all such rules are duly enforced

Contribution in respect of pension or leave allowances of Government servants appointed to be municipal officers or servants

69. When a servant of the Government is appointed to be a municipal officer or servant, the Corporation may pay, in addition to his salary, any contribution which may for the time being be levied by the Government in respect of his pension or leave-allowances

Punishment of officers and servants

70. Every municipal officer or servant shall be liable to fine, reduction, suspension or dismissal by the authority by whom he was appointed

Provided that any action taken under this section in respect of the Engineer or the Health Officer shall be subject to the approval of the Local Government

Provided also that any other municipal officer or servant in receipt of a salary of more than one hundred rupees *per mensem* who is dismissed may appeal to the General Committee, whose decision shall be final

Engineer and Health Officer to be whole time officers.

71. The Engineer and the Health Officer shall devote their whole time to the duties of their respective offices

Certain officers to reside in Calcutta

72. The Engineer, Health Officer, Secretary, Assessor, Collector Joint Collector, Surveyor and License Officer must reside in Calcutta

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[1] For references to rules made under section 68 (*1*) *see* the Bengal Local Statutory Rules and Orders 1912 Vol I, Pt VI, and for further rules *see* Calcutta Gazette, 1913 Pt I B, p 71, and *ibid* 1914, Pt I B, p 405

(Part II—Constitution and Government—Chapter VI—Municipal Officers and Servants—Secs 73-75.)

73. The Corporation, by a resolution in favour of which not less than two-thirds of the Commissioners voting have voted, may make rules[1]— *Power of Corporation to make rules as to furnishing security and grant of leave of absence leave allowances acting allowances pensions and gratuities*

(a) fixing the amount and nature of the security to be furnished by any municipal officer or servant from whom it may be deemed expedient to require security;

(b) for regulating the grant of leave of absence leave-allowances, acting allowances, pensions and gratuities to municipal officers and servants, and

(c) for establishing and maintaining a provident or annuity fund, and for compelling all or any of the municipal officers or servants (other than any servant of the Government in respect of whom a contribution is made under section 69) to contribute to such fund

74. Subject to the rules for the time being in force under section 73, the authority by whom any municipal officer or servant was appointed may grant him such leave of absence and such leave-allowance as it thinks fit, and may appoint a person to act for him during such absence and grant an acting allowance to such person *Grant of leave of absence and leave allowances and appointment and payment of substitutes*

Provided as follows —

(a) every appointment to act as Engineer or Health Officer, and the acting allowance granted to any person so appointed, shall be subject to the approval of the Local Government,

(b) without the approval of the Corporation, no additional expenditure shall be incurred in granting a leave-allowance or acting allowance to an officer or servant appointed by the Chairman,

(c) if in any special case a departure from the aforesaid rules relating to leave allowances or acting allowances seems requisite, a special allowance may be sanctioned by a resolution of the Corporation in favour of which not less than two-thirds of the Commissioners voting have voted

75. Any person appointed under section 74 to act for any municipal officer or servant shall, while so acting, have all the powers and be liable to all the restrictions, limitations and provisions which such officer or servant would, under this Act, have or be liable to *Powers of acting officer or servant*

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[1] For lists of rules made under section 73 *see* the Bengal Local Statutory Rules and Orders, 1912 Vol I Pt VI and for subsequent amendment to the rules made under s 73(a) *see* Calcutta Gazette, 1914 Pt I B., p 289

(Part II.—Constitution and Government.—Chapter VI.—Municipal Officers and Servants.—Chapter VII.—Conduct of Business.—Secs. 76-81.)

Grant of pensions and gratuities.

76. The Corporation may grant pensions and gratuities to municipal officers and servants in accordance with the rules made under section 73.

CHAPTER VII

CONDUCT OF BUSINESS

Transaction of Business by the Corporation.

Ordinary and special meetings.

77. *(1)* The Corporation shall meet not less than once a month for the transaction of business.

(2) The Chairman may, whenever he thinks fit, and shall, upon a requisition made in writing by any seven Commissioners, call a special meeting of the Corporation.

Notice of meetings and business.

78. *(1)* Four days' notice shall be given, by advertisement in local newspapers, of the date fixed for every meeting and of the business to be transacted at such meeting.

(2) A list of the business to be transacted at any meeting shall be sent to the address of every Commissioner resident in Calcutta so that it may be in his hands forty-eight hours before the time fixed for such meeting; and no business shall be brought before or transacted at any meeting other than the business of which notice has been so given:

Provided that any Commissioner may submit to a meeting any resolution going beyond the matters mentioned in the notice given of such meeting, if he has given not less than forty-eight hours' previous notice of his intention so to do, by leaving a copy of the resolution at the municipal office.

Vote of majority decisive.

79. All acts authorized or required to be done by the Corporation, and all questions which may come before the Corporation for decision, shall, save as is herein otherwise provided, be respectively done and decided by a majority of the members of the Corporation voting at the meeting before which the matter is brought.

Attendance of Chairman, Vice-Chairman and Deputy Chairman at meetings.

80. The Chairman shall attend all meetings of the Corporation held under this Act, unless prevented by sickness or other reasonable cause; and the Vice-Chairman and the Deputy Chairman shall attend whenever so directed by the Chairman.

President at meeting.

81. *(1)* The Chairman shall preside at every such meeting, and shall have a second or casting vote in all cases of equality of votes.

(2) In the absence of the Chairman, the Commissioners present at any meeting shall choose some one of their number

to preside, who shall, in case of equality of votes, have a second or casting vote.

(3) The President of any meeting at which a quorum of the Commissioners is present may, with the consent of a majority of the Commissioners present, adjourn the meeting from time to time and from place to place.

Quorum

82. No business shall be transacted at any meeting unless a quorum of twelve Commissioners be present from the beginning to the end of the meeting:

Provided that, if at any meeting there is not a sufficient number of Commissioners present to form a quorum, the President (whether he be the Chairman or not) shall adjourn the meeting to such convenient time and place as he thinks fit, and the business which should have been brought before the original meeting, if there had been a quorum present, shall be brought forward and disposed of in the usual manner at the adjourned meeting, at which a quorum of seven Commissioners shall suffice.

Declaration by President that a resolution has been carried or lost

83. At any meeting, unless a poll be demanded by at least five Commissioners, a declaration by the President that a resolution had been carried or lost, and an entry to that effect in the minutes of proceedings, shall, for the purposes of this Act, be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

Poll and ballot

84. If a poll be demanded under section 83 the votes of all the members of the Corporation present who desire to vote shall be taken under the direction of the President and the result of such poll shall be deemed to be the resolution of the Corporation at such meeting:

Provided that the Corporation may, subject to such rules as may be framed by them under section 85, resolve that any question or class of questions shall be decided by ballot.

Power to make rule

85. The Corporation may make rules[1] for the conduct of business at their meetings.

Contracts and Seal of Corporation

Execution of contracts by Chairman on behalf of the Corporation

86. (*1*) The Corporation may enter into and perform all such contracts as they may consider necessary or expedient for carrying into effect the provisions of this Act.

(*2*) With respect to the making of contracts under or for any purpose of this Act the following provisions shall have effect, namely:—

(*a*) every such contract shall be made on behalf of the Corporation by the Chairman;

[1] For references to rules made under section 85 *see* the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI, and for subsequent amendment to these rules *see* Calcutta Gazette, 1912, Pt. I-B, pp. 195 and 213.

(*b*) every such contract for any purpose which in accordance with any provision of this Act the Chairman may not carry out without the approval or sanction of some other municipal authority shall be made by him subject to such approval or sanction being first duly given

(*c*) no contract (other than an agreement for the acquisition of immovable property) which will involve an expenditure exceeding one thousand rupees and not exceeding ten thousand rupees shall be made by the Chairman unless the same is previously approved by the General Committee

(*d*) no contract involving an expenditure exceeding ten thousand rupees and not exceeding one *lakh* of rupees shall be made by the Chairman unless the same is previously approved by the Corporation

(*e*) no contract involving an expenditure exceeding one *lakh* of rupees shall be made by the Chairman unless the same is previously approved by the Corporation and the Local Government

(*3*) The foregoing provisions of this section shall apply to every variation or discharge of a contract as well as to an original contract

Further provisions as to execution of contracts and provisions as to seal of Corporation

87 (*1*) Every contract made by the Chairman on behalf of the Corporation shall be entered into in such manner and form as would bind the Chairman if such contract were made on his own behalf except that the common seal of the Corporation shall be used (where necessary) and every such contract may in the like manner and form be varied or discharged

(*2*) Every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees shall be in writing shall be sealed and shall specify—

(*a*) the work to be done or the materials or goods to be supplied as the case may be

(*b*) the price to be paid for such work materials or goods and

(c) in the case of a contract for work the time or times within which the same or specified portions thereof shall be completed

(*3*) The common seal of the Corporation shall remain in the custody of the Secretary and shall not be affixed to any contract or other instrument except in the presence of a Commissioner who shall attach his signature to the contract or instrument in token that the same was sealed in his presence

(*4*) The signature of the said Commissioner shall be distinct from the signature of any witness to the execution of such contract or instrument

(*5*) No contract not executed as provided in this section shall be binding on the Corporation

88. (*1*) At least seven days before the Chairman enters into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees, the General Committee shall give notice by advertisement in local newspapers inviting tenders for such contract — Tenders

(*2*) In every case in which the acceptance of a tender would involve an expenditure exceeding ten thousand rupees, the General Committee shall place before the Corporation the specifications, conditions and estimates and all the tenders received, specifying the particular tender (if any) which they recommend for acceptance

(*3*) In every case in which the acceptance of a tender would involve an expenditure exceeding one *lakh* of rupees, the Corporation shall submit to the Local Government the specifications, conditions and estimates, and all the tenders received, specifying the particular tender (if any) which they recommend for acceptance

(*4*) No municipal authority shall be bound to accept any tender which has been made, but any of those authorities may, within the pecuniary limits of their respective powers, as prescribed in section 86, sub-section (*2*), accept any of such tenders which appears to it, upon a view of all the circumstances, to be the most advantageous, or may reject all the tenders submitted to it

89. The Chairman shall take sufficient security for the due performance of every contract into which he enters after a tender has been accepted, and may, in his discretion, take security for the due performance of any other contract into which he enters under this Act — Security for performance of contract

Transaction of Business by the General Committee

90. (*1*) The General Committee shall meet for the despatch of business in the municipal office or in such other place as they may appoint — Meetings

(*2*) An ordinary meeting shall be held once a week and at such other times as may be found necessary

(*3*) The first ordinary meeting of the General Committee shall be held on a day and at a time to be fixed by the Chairman, and, if not held on that day, shall be held on some subsequent day to be fixed by the Chairman, and every subsequent ordinary meeting shall be held on such day

(*Part II.—Constitution and Government—Chapter VII—Conduct of Business.—Secs. 91-95*)

and at such time as the Committee may from time to time determine

(*4*) The Chairman may at any time call a special meeting of the General Committee for the transaction of any business which, in his opinion, cannot be delayed until the next ordinary meeting of the Committee.

Quorum

91. No business shall be transacted at a meeting of the General Committee unless at least six members are present from the beginning to the end of the meeting.

Who to preside in absence of Chairman

92. If at the time appointed for holding a meeting of the General Committee the Chairman is absent, one of the members present, to be chosen by those members for the purpose, shall preside

Vote of majority decisive

93. Every question brought before the General Committee shall be decided by a majority of votes of the members present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes

Power to make rules

94. The General Committee may make rules[1] with respect to their meetings

Sub-Committees

Sub Committees

95. (*1*) The General Committee may from time to time, by specific resolution, delegate any of their powers or duties to Sub Committees, and may also from time to time, by like resolution, refer to such Sub-Committees, for inquiry and report or for opinion, such special subjects relating to the purposes of this Act as they may think fit

(*2*) In every case in which an appeal lies to the General Committee from any proceedings of the Chairman, such appeal shall be heard and decided by a Sub-Committee constituted under sub-section (*1*)

(*3*) Every resolution passed under sub-section (*1*) shall forthwith be communicated to all Commissioners residing in Calcutta and reported to the Local Government

(*4*) Every Sub-Committee shall consist of not less than three or more than six Commissioners, and the General Committee may at any time direct that the Chairman shall also be a member of any Sub Committee other than a Sub-Committee referred to in sub-section (*2*)

(*5*) The said Commissioners shall be nominated by the General Committee, and none of them need, unless the General Committee so direct, be members of the General Committee

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[1] For a reference to rules made under section 94, see the Bengal Local Statutory Rules and Orders, 1912, Vol I, Part VI

(6) The Local Government may make rules declaring what proportion of—

(i) Ward Commissioners,

(ii) Commissioners appointed under clause (a), clause (b) or clause (c) of section 8, and

(iii) Commissioners appointed under clause (d) of section 8,

respectively, shall be nominated to be members of every or any Sub-Committee

(7) Every Sub-Committee shall conform to any instructions that may from time to time be given by the General Committee

(8) The General Committee may at any time dissolve, or, subject to the provisions of sub-sections (4) and (5), and of any rules made under sub-section (6), alter the constitution of, any Sub-Committee

(9) Every Sub-Committee shall choose one of their number to preside at their meetings

Provided that the Chairman shall be President of any Sub-Committee of which he is a member.

(10) If at any meeting the President is not present at the time appointed for holding the meeting, the members of the Sub-Committee present shall choose one of their number to be President of such meeting

(11) When any matter is referred to a Sub-Committee, the General Committee may fix a time within which the report of the Sub-Committee thereon is to be submitted to the General Committee.

(12) All proceedings of any Sub-Committee shall be subject to confirmation by the General Committee

Provided that, if the Chairman concurs in any action recommended by a majority of the members of any Sub-Committee whether or not he is a member of such Sub Committee, and considers that inconvenience would result from delay in taking such action, he may take such action without waiting for confirmation by the General Committee of the proceedings of the Sub-Committee but if the General Committee do not confirm the proceedings of the Sub-Committee, such steps shall be taken to carry out any orders passed by the General Committe as may still be practicable

Special Committees

96. (1) The Corporation may from time to time, by specific resolution, appoint a Special Committee to inquire into and report upon any matter (to be specified in such resolution) which is reserved by this Act for the decision of the Special Committees

Corporation and which is not at the time being under consideration by a Sub-Committee constituted under section 95.

(2) The Corporation may from time to time, by specific resolution, delegate to a Special Committee any of their duties (to be specified in such resolution) which cannot, in the opinion of the Corporation, be properly performed at a meeting of the Corporation.

(3) The provisions of sub-sections *(3)*, *(7)*, *(9)*, *(10)*, *(11)* and *(12)* of section 95 shall apply to every Special Committee as if that Committee were named therein instead of a Sub-Committee, and as if the Corporation were named therein instead of the General Committee.

(4) The Local Government may make rules declaring what proportion of—

(*i*) Ward Commissioners, and

(*ii*) Commissioners appointed under section 8, sub-section (2),

respectively shall be nominated to be members of every or any Special Committee.

Provided that every Special Committee shall be so constituted as to contain not less than one representative of each of the two classes of Commissioners referred to in this sub-section.

(5) The Corporation may make rules[1] for regulating the conduct of business at meetings of Special Committees.

Minutes and Reports of Proceedings

Keeping of minutes of proceedings.

97. (*1*) Minutes of the names of the members present, and of the proceedings, at each meeting of the Corporation shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be laid before the next ensuing meeting and signed at and by the President.

(2) Minutes of the names of [illegible], of the proceedings, at each meeting of the General Committee and of any Sub-Committee or Special Committee shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be laid before the next ensuing meeting and signed at, and by the President of, such meeting.

Inspection of minutes and reports of proceedings.

98. The minutes referred to in section 97, and the full reports (if any) of the proceedings at meetings of the Corporation, shall, at all reasonable times, be kept open at the municipal office to the inspection of any Commissioner without charge, and of any other person on payment of a fee of eight annas.

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[1] For a reference to rules made under section 96 (5), *see* the Bengal Local Statutory Rules and Orders 191 , Vol I, Pt VI, for subsequent amendment to these rules *see* Calcutta Gazette, 1914, Pt I B, p 230.

*(Part II.—Constitution and Government.—Chapter VII.—
Conduct of Business.—Secs. 99-102.)*

99. The Chairman shall forward to the Local Government a copy of the minutes of the proceedings at each meeting of the Corporation, the General Committee and every Sub-Committee and Special Committee, within ten days from the date on which the minutes of the proceedings of such meeting were signed as prescribed in section 97; and, if the Local Government so directs in any case, shall also forward a copy of all papers which were laid before the Corporation, the General Committee, the Sub-Committee or the Special Committee, as the case may be, for consideration at such meeting; and shall also forward to the Local Government, as soon as may be after such date, a full report of the proceedings at meetings of the Corporation, if any such report be prepared. Forwarding of minutes and reports of proceedings to Local Government

Supplemental Provisions.

100. Every member of the General Committee shall be entitled to receive a fee of twenty rupees, and every member of a Sub-Committee a fee of ten rupees, for each meeting of such Committee or Sub-Committee at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof: Fees payable to members of the General Committee and Sub Committees

Provided as follows—

(*a*) no fee shall be paid in respect of any meeting at which is transacted such business only as was adjourned from a former meeting, and

(*b*) no fee shall be paid to the Chairman

101. (*1*) The Corporation may at any time require the General Committee to furnish them with any extract from any proceedings of such Committee or of any Sub-Committee constituted under this Act, and with any return, statement, account or report concerning or connected with any matter dealt with by such Committee or any such Sub-Committee Power of Corporation to call for extracts from proceedings, etc of General Committee or Sub Committees

(*2*) The General Committee shall comply with all such requisitions unless in any case they consider that inconvenience or unreasonable delay would result

102. (*1*) No act done or proceeding taken under this Act shall be questioned on the ground merely of— Validation of acts and proceedings

(*a*) the existence of any vacancy in, or any defect in the constitution of, the Corporation, the General Committee or any Sub-Committee or Special Committee,

(*b*) any Commissioner having voted or taken part in any proceeding in contravention of the proviso to section 39, or

(*c*) any defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Corporation the General Committee or any Sub Committee or Special Committee the minutes of the proceedings of which have been duly signed as prescribed in section 97 shall be taken to have been duly convened and to be free from all defect and irregularity

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PART III —Finance

CHAPTER VIII

THE MUNICIPAL FUNDS

Enumeration of Municipal Fund

103 (1) The Municipal Funds shall consist of—

(a) the General Fund

(b) the Water supply Fund

(c) the Lighting Fund, and

(d) the Sewage Fund

(2) The said Funds shall be held by the Corporation in trust for the purposes of this Act subject to the provisions herein contained

The General Fund

104 (1) The General Fund shall be credited with—

(a) the receipts of the general rate imposed under Chapter XII

(b) all fines realised in cases in which prosecutions are instituted under this Act or any rule by-law or regulation made hereunder and

(c) all other moneys received by the Corporation, except those assigned to the Water supply Fund the Lighting Fund and the Sewage Fund respectively

(2) It shall be debited with—

(i) all expenditure incurred under this Act except that debitable to the Water supply Fund the Lighting Fund and the Sewage Fund respectively, and

(ii) all other expenditure lawfully incurred by the Corporation which the Corporation may from time to time direct to be debited to the General Fund

105. (*1*) The Water-supply Fund shall be credited with— The Water supply Fund

(*a*) the receipts of the water-rate imposed under Chapter XII,

(*b*) all receipts arising out of the sale of water under this Act, and

(*c*) all miscellaneous receipts connected with water-supply.

(*2*) It shall be debited with—

(*i*) the annual interest on all sums borrowed from time to time, whether from the Government or by way of debenture loan, for the construction or extension of water-works for the supply of filtered or unfiltered water;

(*ii*) the annual expenditure requisite for the re-payment of money so borrowed or for the maintenance of Sinking Funds under Chapter X,

(*iii*) the cost of maintaining in an efficient condition the supply of filtered water to Calcutta,

(*iv*) the cost of maintaining in an efficient condition the supply of unfiltered water to Calcutta,

(*v*) the cost of establishments employed, and miscellaneous expenditure incurred for the purposes specified in clauses (*iii*) and (*iv*), and

(*vi*) such proportionate share of the cost of collection, of general supervision and of maintaining the municipal office as the Corporation may from time to time direct.

106. (*1*) The Lighting Fund shall be credited with— The Light Fund

(*a*) the receipts of the lighting-rate imposed under Chapter XII,

(*b*) the receipts, if any, arising out of the sale of gas or electricity under this Act, and

(*c*) all miscellaneous receipts connected with the lighting of Calcutta,

(*2*) It shall be debited with—

(*i*) the annual interest on all sums borrowed from time to time for the construction of gas-works or for supplying electricity for the lighting of Calcutta,

(*ii*) the annual expenditure requisite for the re-payment of money so borrowed or for the maintenance of Sinking Funds under Chapter X,

(*iii*) all expenditure necessary for the efficient lighting of Calcutta by gas, oil, electricity or any other means;

(*iv*) the cost of establishments employed, and miscellaneous expenditure incurred, for the purposes specified in clause (*iii*), and

(*v*) such proportionate share of the cost of collection, of general supervision and of maintaining the municipal office as the Corporation may from time to time direct.

The Sewage Fund.

107. (*1*) The Sewage Fund shall be credited with—

(*a*) the receipts of the sewage rate imposed under Chapter XII,

(*b*) the receipts on account of licenses granted under Chapter XV or section 310;

(*c*) the proceeds, if any, arising from the sale of night-soil under this Act; and

(*d*) all miscellaneous receipts connected with the working of the night-soil removal department.

(*2*) It shall be debited with—

(*i*) the cost of the establishments maintained under section 435 for the removal of sewage,

(*ii*) the cost of maintenance of privies and urinals provided for the use of the public and of the establishments for cleansing the same;

(*iii*) such proportionate share of the cost of inspecting, maintaining and cleansing the public sewers as the Corporation may from time to time determine; and

(*iv*) such proportionate share of the cost of collection, of general supervision and of maintaining the municipal office as the Corporation may from time to time direct.

Division between the four Funds of collections made on account of the consolidated rate.

108. The collections made on account of the consolidated rate mentioned in section 149 shall be divided between the General Fund, the [illegible] the Sewage Fund i[illegible] the water-rate, the [illegible] levied for the time [illegible] count of which each payment is made.

Provided that such deduction shall be made from the proportion to be credited to the Water-supply Fund as may seem to the Corporation to be approximately equivalent to the diminution in the productiveness of the water-rate caused by the partial exemption of certain buildings and lands under the proviso to section 147.

(Part III.—Finance.—Chapter VIII.—The Municipal Funds.—Secs. 109-113.)

109. If the water-rate, the lighting-rate or the sewage-rate is levied at the maximum amount allowed by section 147, and the receipts of the Water-supply Fund, the Lighting Fund or the Sewage Fund, as the case may be, fall short of the total sum debitable thereto, the Corporation may make a grant-in-aid to such Fund from the General Fund. Power to make grant in aid from General Fund to other Funds

110. (1) With the approval of the Corporation, any portion of the Municipal Funds may from time to time be credited to a separate heading in the municipal accounts. Separate heading in accounts

(2) There shall be credited and debited to such heading such sums only as expressly relate to the object for which the heading was provided.

111. All moneys payable to the credit of the Municipal Funds shall be received by the Chairman and shall be forthwith paid into the Bank of Bengal to the credit of an account which shall be styled "the account of the Municipal Funds of the City of Calcutta." Receipt of moneys and deposit in Bank of Bengal

112. (1) Subject to the provisions of section 24, section 141 and sub-section (3) of section 143, no payment shall be made by the Bank of Bengal out of the Municipal Funds except upon a cheque signed— Drafts on the Municipal Funds

(a) by the Vice-Chairman and the Secretary, or,

(b) in the event of the illness or occasional absence from Calcutta of the Vice-Chairman or the Secretary, by the Secretary or the Vice-Chairman, as the case may be, and by some other person appointed in that behalf by the Chairman with the consent of the General Committee.

(2) Payment of any sum due by the Corporation exceeding one hundred rupees in amount shall be made by means of a cheque signed as aforesaid and not in any other way.

(3) Payment of any sum due by the Corporation not exceeding one hundred rupees in amount may be made in cash, cheques for sums not in excess of one thousand rupees each, signed as aforesaid, being drawn from time to time to cover such payments.

113. Notwithstanding anything contained in section 111 or section 112, the Chairman may, with the approval of the General Committee and subject to the control of the Corporation, from time to time remit any portion of the Municipal Funds to a bank or other agency at any place beyond Calcutta at which he may consider it desirable for the Corporation to have funds in deposit, and any money payable to the credit of or chargeable against the Municipal Funds which can, in the opinion of the Chairman, be most conveniently paid into or out of the account of the Corporation at any such bank or agency may be so paid. Separate account of Municipal Funds beyond Calcutta

Application of Municipal Funds.

114. The moneys from time to time credited to the Municipal Funds shall be applied in payment of all sums, charges and costs necessary for the purposes specified or referred to in section 14 or for otherwise carrying this Act into effect, or of which the payment is duly directed or sanctioned by or under any of the provisions of this Act, inclusive of—

(*a*) the expenses of every election held under this Act,

(*b*) the fees payable under section 100 to members of the General Committee and members of Sub-Committees,

(*c*) the salaries and other allowances of the Chairman, Vice-Chairman, and Deputy Chairman,

(*d*) the salaries, fees and allowances of all municipal officers and servants and all pensions and gratuities granted under Chapter VI,

(*e*) charges for stationery, printing and advertising,

(*f*) all expenses and costs incurred by the Chairman in the exercise of any power or the discharge of any duty conferred or imposed upon him by this Act, including payments which he is required or empowered to make by way of compensation,

(*g*) every sum payable—

(*i*) under section 24, under the orders of the Local Government,

(*ii*) under the direction of any officer appointed under section 141,

(*iii*) under a decree or order of a Civil or Criminal Court passed against the Corporation or against the Chairman *ex officio*,

(*iv*) under a compromise of any suit or other legal proceeding or claim effected under section 633.

Payments not to be made out to Municipal Funds unless covered by a budget grant and balance is available.

115. No payment of any sum out of the Municipal Funds shall be authorized by the Chairman unless the expenditure of the same is covered by a current budget-grant and a sufficient balance of such budget grant is still available notwithstanding any reduction or transfer thereof which may have been made under section 126 or section 127.

Provided that the following items shall be excepted from this prohibition, namely:—

(*a*) refunds of taxes and other moneys which are authorized by this Act,

(*b*) re-payments of moneys belonging to contractors or other persons and held in deposit and of moneys collected or credited to the Municipal Funds by mistake;

(*c*) costs incurred by the Chairman under section 15, clause (*c*);

(*d*) sums payable in any of the circumstances mentioned in section 114, clause (*g*),

(*e*) temporary payments under section 118 for works urgently required for the public service,

(*f*) sums which the Chairman is, by, or under section 290, sub-section (*3*), section 347, sub section (*2*) section 426, sub-section (*2*), section 472, sub-section (*4*), section 518, sub-section (*2*) section 520, sub-section (*4*), section 596, sub-section (*3*), section 614 or section 632, clause (*c*), required or empowered to pay by way of compensation, and

(*g*) expenses incurred by the Chairman in the exercise of the powers conferred upon him by section 325

116. Before the Vice-Chairman, the Secretary or any other person signs a cheque under section 112, he must satisfy himself that the sum for which such cheque is drawn either is required for a purpose or work specifically sanctioned by a municipal authority or is an item of one of the excepted descriptions specified in the proviso to section 115.

Duty of Vice Chairman and others before signing cheque

117. Whenever any sum is expended by the Chairman under clause (*c*), clause (*d*), clause (*f*) or clause (*g*) of the proviso to section 115, he shall forthwith communicate the circumstances to the General Committee, who shall take such action under section 126 as may in the circumstances appear possible and expedient for covering the amount of the additional expenditure

Procedure when money not covered by a budget grant is expended under clause (*c*) (*d*) (*f*), or (*g*) of section 115

118. (*1*) On the written requisition of a Secretary to the Local Government, the Chairman may at any time undertake the execution of any work certified by such Secretary to be urgently required for the public service, and for this purpose may temporarily make payments from the Municipal Funds, so far as the same can be made without unduly interfering with the regular working of the municipal administration

Temporary payments from the Municipal Funds for works urgently required for the public service

(*2*) The cost of all work so executed and of the establishment engaged in executing the same shall be paid by the Local Government and credited to the Municipal Funds

(*3*) On receipt of any requisition under sub section (*1*), the Chairman shall forthwith forward a copy thereof to the Corporation, together with a report of the steps taken by him in pursuance of the same.

Investment of surplus money

119. (*1*) Surplus moneys at the credit of any of the Municipal Funds which cannot immediately or at an early date be applied to the purposes of this Act or of any loan raised under this or any former Act may from time to time be deposited at interest in the Bank of Bengal or invested in any of the securities or debentures mentioned in section 135, sub section (*1*)

(*2*) All such surplus moneys which it is necessary to keep readily available for application to the said purposes, and all such surplus moneys which cannot, in the opinion of the Chairman, concurred in by the General Committee be favourably deposited or invested as aforesaid, may be deposited at interest at any bank or banks in Calcutta which the General Committee may, subject to the control of the Corporation, from time to time select for the purpose

(*3*) All such deposits and investments shall be made by the Chairman on behalf of the Corporation, with the sanction of the General Committee, and, with the like sanction, the Chairman may at any time withdraw any deposit so made, or dispose of any securities, and re deposit or re-invest the money so withdrawn or the proceeds of the disposal of such securities, but no order for making any deposit, investment, withdrawal or disposal under this section shall have any validity unless the same be in writing, signed by the Chairman and the Secretary

(*4*) The loss, if any, arising from any such deposit or investment shall be debited to the Municipal Funds

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CHAPTER IX.

BUDGET ESTIMATE

Chairman to lay before General Committee annual estimates of expenditure receipts and balances and statement of proposed taxes

120. The Chairman shall, on or before each tenth day of February, have prepared and lay before the General Committee, in such form as the said Committee, may from time to time approve,—

(*a*) an estimate of the expenditure which must or should, in his opinion, be incurred by the Corporation in the next ensuing financial year,

(*b*) an estimate of receipts from all sources during the said year,

(*c*) an estimate of all balances, if any, which will be available for reappropriation or expenditure at the commencement of the said year, and

(*d*) a statement of proposals as to the taxation which it will in his opinion, be necessary or expedient to impose under this Act in the said year

of 1899.]

(*Part III.—Finance—Chapter IX.—Budget Estimate—Secs 121-124*)

121. (*1*) The General Committee shall, on or as soon as may be after the tenth day of February, consider the estimates and proposals of the Chairman, and, after having obtained from him such further detailed information (if any) as they may think fit to require and having regard to all the requirements of this Act, shall frame therefrom, subject to such modification and additions therein or thereto as they may think fit, a Budget Estimate of the income and expenditure of the Corporation for the next ensuing financial year — General Committee to frame Budget Estimate

(*2*) In such Budget Estimate, the General Committee shall, among other things,—

(*a*) make adequate and suitable provision for such services as may be required for the fulfilment of the duties imposed on the respective municipal authorities by this Act, in order to provide for such items of expenditure proposed by the Chairman as they may approve,

(*b*) provide for the payment, as they fall due, of all instalments of principal and interest for which the Corporation may be liable in respect of loans contracted by them,

(*c*) allow for a cash balance at the end of the said year of not less than two *lakhs* of rupees, and

(*d*) propose, with reference to the provisions of Part IV, the levy of municipal rates and other taxes at such rates as are necessary to provide for the preceding purposes

122. The Chairman shall cause the Budget Estimate, as finally framed by the General Committee, to be printed, and shall, not later than the first day of March, forward a printed copy thereof to the usual or last known local place of abode of each Commissioner — Copy of Budget Estimate to be sent to each Commissioner

123. At a meeting of the Corporation, which shall be called for some day in March not later than the seventh, the Budget Estimate framed by the General Committee shall be laid before the Corporation, and they shall proceed to consider the same. — Consideration of Budget Estimate by Corporation

124. (*1*) The Corporation shall, on or before the twenty-second day of March, after considering the General Committee's proposals in this behalf, determine, subject to the limitations and conditions prescribed in Part IV, the rates at which municipal rates and other taxes shall be levied in the next ensuing financial year. — Fixing of rates of taxes

(*2*) Except under section 24 or section 127, the rates so fixed shall not be subsequently altered for the year for which they have been fixed.

(*Part III—Finance—Chapter IX—Budget Estimate—Secs 125, 126*)

Final adoption of Budget Estimate

125. Subject to the provisions of sub section (*1*) of section 124 and to the other requirements of this Act, the Corporation may refer the Budget Estimate back to the General Committee for further consideration and re-submission within a specified time, or may adopt the Budget Estimate or any revised Budget Estimate submitted to them, either as it stands, or subject to such alteration as they may deem expedient

Provided as follows —

(*a*) the Budget Estimate, as finally adopted by the Corporation, must make adequate and suitable provision for each of the matters referred to in clauses (*a*), (*b*) and (*c*) of section 121,

(*b*) if by the twenty-third day of March the Corporation have not adopted any Budget Estimate, the Budget Estimate prepared by, or the last revised Budget Estimate submitted by, the General Committee shall, subject to any alterations that may be agreed upon by the Corporation and the General Committee, be deemed to be the Budget Estimate finally adopted, and the municipal rates and other taxes shall be levied at the rates provided for therein

Power to alter budget grants

126. (*1*) The General Committee, with the sanction of the Corporation, may from time to time during the financial year —

(*a*) increase the amount of any budget-grant,

(*b*) make an additional budget-grant to meet any special or unforeseen requirement arising during the same year,

(*c*) transfer and add the amount or a portion of the amount of any budget-grant to the amount of any other budget-grant, or

(*d*) reduce the amount of any budget grant

Provided as follows —

(*i*) due regard shall be had to all the requirements of this Act,

(*ii*) in making any increase or additional budget-grant, the estimated cash balance at the close of the year shall not be reduced below two *lakhs* of rupees

(*2*) Every increase to a budget-grant and every additional budget-grant made in any year under sub-section (*1*) shall be deemed to be included in the Budget Estimate finally adopted for that year

(*Part III—Finance.—Chapter IX—Budget Estimate—Chapter X.—Loans—Secs. 127, 128.*)

127. (*1*) If at any time during the year it appears to the Corporation, upon the representation of the General Committee, that, notwithstanding any reduction of budget-grants that has been made by the General Committee under section 126, the income of the Municipal Funds during the same year will not suffice to meet the expenditure sanctioned in the Budget Estimate of the same year, and to leave at the close of the year a cash balance of not less than two *lakhs* of rupees, then it shall be incumbent on the Corporation to forthwith sanction any measure which they may consider necessary for proportioning the year's income to the expenditure. Re-adjustment of income and expenditure during the year

(*2*) For the purposes of sub-section (*1*), the Corporation may either diminish the sanctioned expenditure of the year, so far as it may be possible so to do with due regard to all the requirements of this Act, or have recourse to supplementary taxation, or adopt both of those methods.

[1] CHAPTER X

LOANS

[2] **128.** Th[illegible] pursuance of a resolution passed at [illegible] to time raise a loan, by the issue [illegible] rity of all or any of the rates taxes, fees and dues authorized by this Act, of any sums of money which may be required— Power of Corporation to borrow money

(*a*) for the construction of works under this Act, or

(*b*) for the acquisition of land for the purposes of this Act, or

(*c*) to pay off any debt due to the Government or

(*d*) to repay a loan previously raised under this Act.

Provided as follows:

(*i*) no loan shall be raised without the previous sanction of the Local Government or (if the loan exceeds Rupees five *lakhs* or is to be repaid after a period exceeding thirty years) the Government of India,

(*ii*) the rate of interest to be paid for any loan, and the terms (as to the time and method of repayment, and otherwise) upon which any loan is to be raised,

[1] This Chapter X (sections 128 to 141 H) was substituted for the original Chapter X (sections 128 to 141) by the Calcutta Municipal (Loans) Act, 1914 (Ben. Act 4 of 1914), s. 2, *post*, p. 873.

[2] Section 128 is new—*see* footnote above.

shall be subject to the approval of the Local Government, or (if the loan exceeds rupees five *lakhs* or is to be repaid after a period exceeding thirty years) the Government of India;

(iii) the period within which a loan is to be repaid shall in no case exceed sixty years.

(2) When any sum of money has been borrowed under sub-section (1),—

(i) no portion thereof shall, without the previous sanction of the Local Government, be applied to any purpose other than that for which it was borrowed, and

(ii) no portion of any sum of money borrowed under clause (a) of sub-section (1) shall be applied to the payment of salaries or allowances to any municipal officers or servants, other than those who are exclusively employed upon the works for the construction of which the money was borrowed

Determination of sums to be borrowed

[1] **129.** The Corporation shall at a special meeting to be held on or before the twenty-second day of March in every year after considering the General Committee's proposals in this behalf, determine subject to the provisions of this Act, what sums of money (if any) shall be borrowed under section 128 in the next ensuing financial year.

Limit to borrowing powers

[1] **130.** Notwithstanding anything hereinbefore contained, the borrowing powers of the Corporation shall be limited so that the sums payable under this Act during the said financial year for interest and for the maintenance of Sinking Funds [including the payments prescribed by sub clause (c) of section 138] shall not exceed ten *per cent.*, on the annual rateable value of buildings and land as determined under Chapter XII

Form exchange transfer and effect of debentures

[1] **131.** (1) All debentures issued under this Act shall be in such form, and signed by such person, as the Corporation may from time to time prescribe with the previous sanction of the Local Government, or (in the case of a loan raised out of India) the Government of India

(2) The holder of any debenture in any form prescribed under sub-section (1) may obtain in exchange therefor, upon such terms as the Corporation may from time to time determine a debenture in any other form so prescribed.

(3) The holder of any debenture issued by the Corporation under the authority of any prior enactment may obtain in exchange therefor, upon such terms as the Corporation may from

[1] Sections 129 to 131 are new—*see* footnote [1] on page 267 *ante*

time to time determine a debenture in a form prescribed under sub section (*1*)

(*4*) Every debenture issued by the Corporation under this Act shall be transferable in such manner as shall be therein expressed

(5) The right to sue in respect of the moneys secured by any such debentures or by any debentures issued by the Corporation under the authority of any prior enactment shall be vested in the holders thereof for the time being without any preference by reason of some of such debentures being prior in date to others

Signature of coupons attached to debentures

[1]**132.** All coupons attached to debentures issued under this Act shall bear the signature of the Vice Chairman and such signature may be engraved, lithographed or impressed by any mechanical process

Payment to survivors of joint payees

[1]**133** When any debenture or security issued under this Act is payable to two or more persons jointly and either or any of them dies then notwithstanding anything in section 45[2] of the Indian Contract Act 1872 the debenture or security shall be payable to the survivor or survivors of such persons

Provided that nothing in this section shall affect any claim by the representative of a deceased person against such survivor or survivors

Receipt by joint holder for interest or dividend

[1]**134.** Where two or more persons are joint holders of any debenture or security issued under this Act any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security unless notice to the contrary has been given to the Corporation by any other of such persons

Repayment of loans raised after the commencement of the Calcutta Municipal (Loans) Act 1914

[1]**135** Every loan raised by the Corporation under section 128 after the commencement[3] of the Calcutta Municipal (Loans) Act 1914 shall be repaid within the time approved under proviso (*ii*) to sub section (*1*) of that section and by such of the following methods as may be so approved namely —

(*a*) from a Sinking Fund established under section 136 in respect of the loan or

(*b*) partly from the Sinking Fund established under section 136 in respect of the loan and (to the extent to which that Sinking Fund falls short of the sums required for the repayment of the loan) partly from money borrowed for the purpose under clause (*d*) of section 128

Establishment and maintenance of Sinking Funds for such loans

[1]**136** (*1*) Whenever the repayment from a Sinking Fund of a loan referred to in section 135 has been approved under proviso (*ii*) to sub section (*1*) of section 128 the Corporation shall establish such a Fund and shall pay into it on the first day of

Sections 132 to 136 are new—*see* footnote [1] on p 267 *ante*
[2] Printed in the Central Acts 1868 8 Ed 1909 p 289
[3] *i e* 11th March 1914

every half-year (commencing from the half-year next after that in which the loan is taken), until the loan is repaid, a sum so calculated that, if regularly paid, it would, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the loan at the time approved.

(2) The rate of interest, on the basis of which the sum referred to in sub-section (*1*) shall be calculated, shall be such as may be prescribed by the Government of India.

(3) A separate Sinking Fund shall be established in respect of each loan referred to in section 135.

Power to discontinue payments into Sinking Fund.

[1]**137.** Notwithstanding anything contained in section 136, if at any time the sum standing at credit of the Sinking Fund established for the repayment of any loan is of such amount that, if allowed to accumulate at the rate of interest prescribed under sub-section (2) of that section, it will be sufficient to repay the loan at the time approved under proviso (*ii*) to sub-section (*1*) of section 128, then, with the permission of the Local Government, further half-yearly payments into such Fund may be discontinued.

Provisions regarding loans raised between the 1st April 1881 and the commencement of the Calcutta Municipal (Loans) Act, 1914.

[1]**138.** In respect of all loans raised by the Corporation under this Act between the 1st April, 1881, and the commencement[2] of the Calcutta Municipal (Loans) Act, 1914, the following provisions shall have effect, namely:— Ben 191

(*1*) The Corporation shall maintain a Sinking Fund in respect of all such loans, and shall pay into such Fund the following sums:—

(*a*) on the first day of every half-year, commencing from the 1st July, 1914, in respect of such of the said loans as were repaid before the 31st March, 1914, a sum representing four *per cent. per annum* on the amount of each of such loans, such payments to be continued, in the case of each of such loans, until the expiry of a period of forty-seven years from the date on which the loan was raised, and

(*b*) on the first day of every half-year, in respect of such of the said loans as have not been repaid before the 31st March, 1914, a sum representing one *per cent. per annum* on the amount of each of such loans, until the loan is repaid, and

(*c*) on the first day of every half-year, for a period of ten years, with effect from the 1st July, 1914, the sum of Rupees sixty-six thousand.

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[1] Sections 137 and 138 are new, *see* footnote [1] on p. 267, *ante*.
[2] *i.e.*, 11th March, 1914.

(*2*) When any of the said loans hereafter falls due for repayment, it shall be repaid—

(*i*) from the sums which have accumulated in the Sinking Fund maintained under clause (*1*) and Sinking Fund A maintained before the commencement[1] of the Calcutta Municipal (Loans) Act, 1914, to the extent to which half-yearly payments of one *per cent per annum* on the amount of any such loan would have accumulated at three *per cent* compound interest from the date of its commencement, and

(*ii*) to the extent to which the sums referred to in sub-clause (*i*) of this clause fall short of the sum required for repayment of the loan—from money to be borrowed by the Corporation for the purpose, for the period by which the term of the original loan falls short of forty-seven years.

(*3*) A separate Sinking Fund shall be established in respect of each amount borrowed under sub-clause (*ii*) of clause (*2*) of this section, and the provisions of sections 136 and 137 shall apply to each such Sinking Fund

Transfer of securities and cash to the Corporation

[2]139. All securities and cash jointly or severally held before the commencement[1] of the Calcutta Municipal (Loans) Act, 1914, by the Secretary to the Government of Bengal in the Financial Department and the Accountant-General, Bengal, as Trustees for and in respect of Sinking Fund A referred to in sub-clause (*i*) of clause (*2*) of section 138, shall forthwith be transferred by them to the Corporation, and the Corporation shall hold the same as part of the Sinking Fund established under section 138

Power of Corporation to consolidate their loans

[2]140. (*1*) Notwithstanding anything to the contrary contained in this Act, the Corporation may consolidate all or any of their loans, and for that purpose may invite tenders for a new loan (to be called "the Calcutta Municipal Consolidated Loan, 19 ") and invite holders of municipal debentures to exchange their debentures for scrip of such loan

(*2*) The terms of every such consolidated loan and the rates at which exchange into such consolidated loan shall be permitted, shall be subject to the prior approval of the Government of India

(*3*) The period for the extinction of any such consolidated loan shall not, without the sanction of the Government of India, extend beyond the furthest date within which any of the loans to be consolidated would otherwise be repayable

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[1] *i.e.* 11th March 1914

[2] Sections 139 and 140 are new—*see* footnote [1] on p. 267, *ante*

(*4*) The Corporation shall provide for the repayment of every such consolidated loan by establishing a Sinking Fund therefor

(*5*) The provisions of sections 136 and 137 shall apply to each Sinking Fund established under sub section (*4*)

Provided that, in calculating the sum to be paid into any such Sinking Fund in pursuance of section 136, any sums transferred to that Fund in pursuance of proviso (*i*) or proviso (*ii*) to section 141 C shall be taken into account

Time for repayment of moneys borrowed to extinguish previous loan

[1]**141.** The time for the repayment of any moneys borrowed under this Act for the purpose of extinguishing any previous loan shall not, except with the express sanction of the Government of India, extend beyond the unexpired portion of the period for which such previous loan was sanctioned

Investment of Sinking Funds

[1]**141A.** (*1*) All money paid into a Sinking Fund shall as soon as possible be invested by the Corporation in—

(*a*) Government securities, or
(*b*) securities guaranteed by the Government, or
(*c*) Calcutta Municipal debentures, or
(*d*) debentures issued by the Commissioners for the Port of Calcutta, or
(*e*) debentures issued by the Trustees for the Improvement of Calcutta,

and shall be held by the Corporation for the purpose of repaying from time to time the debentures issued by it

(*2*) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt, be paid into the appropriate Sinking Fund and invested in the manner prescribed by sub-section (*1*)

(*3*) Moneys standing at credit of two or more Sinking Funds may, at the discretion of the Corporation, be invested together as a common fund and it shall not be necessary for the Corporation to allocate the securities held in such investments among the several Sinking Funds

(*4*) Any investment made under this section may from time to time subject to the provisions of sub-section (*1*), be varied or transposed

Power of Corporation to reserve a portion of loan-debentures for investment of Sinking Funds

[1]**141B.** (*1*) For the purpose of investing any portion of its funds (including Sinking Funds) the Corporation may, with the previous sanction of the Government of India, reserve and set apart for issue at par to and in the name of "the Chairman of the Corporation of Calcutta (on behalf of the Corporation)" any portion of the debentures to be issued on account of any loan, provided that the intention so to reserve and set apart such debentures shall have been notified as a condition of the issue of the loan

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[1] Sections 141 to 141 B are new—*see* foot note [1] on p ? 7 *ante*

(*2*) The issue of any such debentures to the Chairman, as aforesaid, shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to and in the name of any other person

(*3*) The purchase by, or the transfer, assignment or endorsement to the Corporation, or to the Chairman on behalf of the Corporation, of any debenture issued by the Corporation shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to any other person

Application of Sinking Funds

[1]**141C.** Until any loan is wholly repaid, the Corporation shall not apply the Sinking Fund established in respect of that loan to any purpose other than the repayment of that loan:

Provided that—

(*i*) when any loan, or part thereof, which was raised after the commencement [2] of the Calcutta Municipal (Loans) Act, 1914, has been consolidated under section 140, the Corporation shall transfer to the Sinking Fund established for such consolidated loan the sum standing at credit of the Sinking Fund of the original loan, or, if part only of a loan has been consolidated, then such part of the sum standing at credit of the Sinking Fund of the original loan as is proportionate to the amount of the original loan which is incorporated in the consolidated loan, and

(*ii*) when any loan, or part thereof, which was raised before the commencement [2] of the Calcutta Municipal (Loans) Act, 1914, has been consolidated, the Corporation shall transfer such amounts as the Government of India may direct from the Sinking Fund maintained under clause (*1*) of section 138 and from Sinking Fund A maintained before the commencement of the said Act to the Sinking Fund established for consolidated loans under section 140, sub-section (*4*)

Annual statement by Chairman

[1]**141D.** (*1*) The Chairman shall, at the end of every financial year, prepare a statement showing—

(*a*) the amount which has been invested during the year under section 141A,

(*b*) the date of the last investment made previous to the submission of the statement,

(*c*) the aggregate amount of the securities then in the hands of the Corporation, and

[1] Sections 141 C and 141 D are new—see footnote [1] on p. 267, *ante*

[2] i.e., 11th March, 1914

(d) the aggregate amount which has, up to the date of the statement been applied under section 141C in or towards repaying loans

(2) Every such statement shall be laid before a meeting of the Corporation and published in the Calcutta Gazette

Priority of payments for interest and repayment of loans over other payments

[1]**141E.** All payments due from the Corporation for interest on and repayment of loans shall be made in priority to all other payments due from the Corporation

Annual examination of sinking funds

[1]**141F.** (1) All Sinking Funds established under this Act shall be subject to annual examination by the Accountant-General, Bengal, who shall ascertain whether the cash and the current value of the securities at credit of such Funds are actually equal to the amount which would have accumulated had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom

(2) The Corporation shall forthwith pay into any Sinking Fund any amount which the Accountant-General may certify to be deficient, unless the Government of India specially sanction a gradual readjustment

(3) If the cash and the current value of the securities at credit of any Sinking Fund are more than equal to the amount which should have accumulated in the circumstances described in sub-section (1), the Accountant-General shall certify the amount of such excess sum and the Corporation may thereupon transfer the excess sum to the General Fund

(4) If any dispute arises as to the accuracy of any certificate made by the Accountant-General under sub-section (2) or sub-section (3), the Corporation may, after making the payment or transfer therein mentioned, refer the matter to the Local Government, whose decision shall be final

Attachment of Municipal Funds for recovery of money borrowed from the Government

[1]**141G.** (1) If any money borrowed by the Corporation from the Government whether before or after the commencement of this Act, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the Local Government may attach the Municipal Funds or any of them

[2](2) After such attachment no person except an officer appointed in this behalf by the Local Government shall in any way deal with the attached Funds, but such officer may do all acts in respect thereof which any municipal authority, officer or servant might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the arrear and of all interest and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings

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[1] Sections 141E to 141G are new—see footnote [1] on p 267 ante

[2] The provisions of s 141 G(2) [formerly 141(2)] are made applicable to ss 105 and 106 of the Calcutta Improvement Act 1911 (Ben Act 5 of 1911)—see ss 105 and 106 of that Act post, pp 740 and 741

of 1899.]

(Part III—Finance—Chapter X—Loans—Chapter XI—Accounts—Secs 141H-144)

Provided that no such attachment shall defeat or prejudice any debt for which the Funds attached were previously pledged in accordance with law, but all such prior charges shall be paid out of the proceeds of the Funds before any part of the proceeds is applied to the satisfaction of the debt due to the Government

[1]**141H.** If the Corporation fails to make any payment as required by section 141F, sub-section (2), the Local Government may attach the Municipal Funds or any of them, and the provisions of section 141G, sub section (2), shall with all necessary modifications, be deemed to apply

Attachment of Municipal Funds for securing payment into Sinking Fund

CHAPTER XI

ACCOUNTS

142. Accounts of the receipts and expenditure of the Corporation shall be kept in such manner and in such forms as the General Committee may from time to time prescribe

Accounts to be kept

143. (1) The municipal accounts shall be examined and audited from time to time by auditors specially appointed[2] in this behalf by the Local Government

Appointment powers and remuneration of municipal auditors

(2) The auditors so appointed may,—

(a) by written summons require the production before them of any document which they may consider necessary for the proper conduct of their audit,

(b) by written summons, require any person having the custody or control of, or accountable for, any such document to appear in person before them, and

(c) require any person so appearing before them to make and sign a declaration with respect to such document or to answer any question or prepare and submit any statement

(3) The General Committee shall from time to time pay to the Local Government from the Municipal Funds such sums as may be fixed by the Local Government to cover the cost of the audit, not exceeding the actual cost as declared by the Local Government

144. The auditors so appointed shall—

Reports and information to be furnished by auditors

(a) report to the General Committee any material impropriety or irregularity which they may observe in the

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[1] Section 141H is new—see footnote [1] on p 267, *ante*

[2] For a reference to appointments made under section 143 (1) *see* the Bengal Local Statutory Rules and Orders 191[illegible] Vol I Pt VI

expenditure, or in the recovery of moneys due to the Corporation, or in the municipal accounts,

(*b*) furnish to the General Committee such information as the said Committee may from time to time require concerning the progress of their audit, and

(*c*) as soon as may be after the completion of their audit, deliver to the General Committee a report upon the municipal accounts.

Auditors report to be sent to each Commissioner and laid before Corporation.

145. The Chairman shall cause the report mentioned in section 144, clause (*c*), to be printed, and shall forward a printed copy thereof to each Commissioner, along with the papers mentioned in section 17, sub-section (*3*), and shall bring such report before the Corporation for consideration at their next meeting.

General Committee to remedy defects pointed out by auditors, and to report same to Corporation.

146. It shall be the duty of the General Committee forthwith to remedy any defects or irregularities that may be pointed out by the auditors, and to report the same to the Corporation.

PART IV.—Taxation.

CHAPTER XII.[1]

Rates.

Imposition of Rates.

Power to impose rates.

147. The following rates may be imposed upon all buildings and lands, namely:—

(*a*) a general rate not exceeding thirteen *per cent.* on the annual valuation determined under this Chapter;

(*b*) a water-rate not exceeding six *per cent.* on the annual valuation determined as aforesaid,

(*c*) a lighting-rate not exceeding two *per cent.* on the annual valuation determined as aforesaid; and

(*d*) a sewage-rate not exceeding two *per cent.* on the annual valuation determined as aforesaid.

Provided that buildings and lands, no part of which is within one hundred and fifty yards of the nearest stand-post or

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[1] The Chairman of the Corporation pays from the Municipal Funds to the Board of Trustees for the Improvement of Calcutta on the first day of each quarter, and shall pay so long as the Board continue to exist, a sum equivalent to one-half *per cent.* per quarter on the annual rateable valuation determined under this Chapter—*see* the Calcutta Improvement Act, 1911 (*Ben. Act 5 of 1911*) s. 83, *post*, p. 736.

other supply of filtered water avilable to the public, shall be assessed to water-rate at three *per cent* less than buildings and lands otherwise situated

148. The amounts of the said rates shall be fixed annually, in the manner provided in Chapter IX, with reference to the requirements of the General Fund, the Water-supply Fund, the Lighting Fund and the Sewage Fund, respectively

Amounts of rates how to be fixed

Consolidation of Rates

149. The said rates shall be levied as one consolidated rate [1]

Rates to be levied as one consolidated rate

Exemptions

150. *(1)* Buildings used exclusively for purposes of public worship, and public burial or burning grounds duly registered under Chapter XXXIX, shall be exempt from the consolidated rate,

Exemptions from consolidated rate

and the Corporation may either wholly or partially exempt from the consolidated rate any building or land used for purposes of public charity

Provided that the following buildings and land shall not be deemed to be used exclusively for public worship or for purposes of public charity within the meaning of this section, namely —

(*a*) buildings or land in or on which any trade or business is carried on, and

(*b*) buildings or land in respect of which rent is derived, whether such rent is or is not applied exclusively to religious purposes or purposes of public charity

(2) The Corporation may exempt the owner of any hut from payment of the whole or any portion of the consolidated rate payable in respect of such hut

(3) With the previous sanction of the Local Government the Corporation may by resolution, exempt from the consolidated rate all buildings and lands the annual valuation of which, as determined under this Chapter, does not exceed twenty rupees or such smaller sum as may be specified in such resolution

Provided that no person shall be entitled to claim the benefit of such exemption if he owns or occupies more than one building or piece of land and the aggregate annual valuation of all the buildings or lands owned or occupied by him exceeds twenty rupees or the smaller sum specified in the said resolution

[1] As to the sum paid by the Port Commissioners as consolidated rate see the Calcutta Port Act 1890 (Ben Act 3 of 1890) ss 60 66 C in Vol II of this Code

[1] *Assessment of Buildings and Land to the consolidated Rate*

Annual value of building or land how to be ascertained

151. For the purpose of assessing land and buildings to the consolidated rate —

(*a*) the annual value of land and the annual value of any building erected for letting purposes or ordinarily let shall be deemed to be the gross annual rent at which the land or building might reasonably be expected to let from year to year less in the case of a building an allowance of ten *per cent* for the cost of repairs and for all other expenses necessary to maintain the building in a state to command such gross rent and

(*b*) the annual value of any building not erected for letting purposes and not ordinarily let shall be deemed to be five *per cent* on the sum obtained by adding the estimated present cost of erecting the building less a reasonable amount to be deducted on account of depreciation if any to the estimated value of the land valued with the building as part of the same premises

Provided as follows —

(*i*) the annual value of *bustee* land shall be deemed to be the gross annual rent at which the land might reasonably be expected to let from year to year *plus* the gross annual rent at which the huts or structures erected by the tenants might reasonably be expected to let from year to year after deducting therefrom the rent of the lands and an allowance of ten *per cent* for the cost of repairs and for all other expenses necessary to maintain such huts or structures in a state to command such gross rent

(*ii*) in calculating the value of land under clause (*a*) the value of any machinery thereon shall be excluded

(*iii*) when a building is occupied by the owner under such exceptional circumstances as to render a valuation of five *per cent* on the cost of erecting the building less depreciation excessive a lower percentage may be taken

(*iv*) when any building has been valued at a special percentage taken under proviso (*iii*) it may be revalued at any time after the exceptional circumstances referred to in that proviso have ceased to exist

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[1] As to the excl s on of ce a n sums n a e s n land to the consol dated rate *see* s 357 (4) po t p 33

As to the a sessment of the property of the Po t Comm oners *see* the Calc tta Port Act 1890 (Ben Act 3 of 18 0) ss 5 to 66 B 66 D to 66 L n Vol II of th s Code

Assessment of annual value and duration of assessment.

152. *(1)* All valuations of buildings and lands situated in the districts mentioned in column 1 of Schedule VII, which have been made by competent authority and are in force at the commencement of this Act shall remain in force for the periods terminating on the dates respectively prescribed in that behalf in column 2 of that Schedule and the annual value at which buildings and lands in each such district are to be assessed after the date so prescribed shall be fixed by the Chairman for a period of six years, and thereafter for successive periods of six years

Provisos as to division of Calcutta into districts.

(2) Provided as follows:—

(a) for the purpose of dividing Calcutta into districts under section 154 the Chairman may retain the valuation of the buildings and lands in any part of Calcutta for a further period not exceeding six years, or may make a re-valuation for a less period than six years

Bustee and waste and agricultural lands.

(b) bustee lands, with the huts upon them or lands that are waste or are used for agricultural purposes may be valued annually at the discretion of the Chairman and shall be so valued on the application of the owner and, when such lands are not re-valued the former valuation shall remain in force from year to year until a re-valuation is made

Unvalued buildings and land.

(c) any building or land, the valuation of which has been cancelled on the ground of irregularity or which for any other reason has no annual value legally assigned to it, may be valued at any time for such period as remains unexpired in the district in which it is included under section 154

Alterations and improvements.

(d) if, during the currency of any period mentioned in sub-section *(1)* any substantial alteration and improvement is made in any building the Chairman may cause such building to be re-valued and such re-valuation shall be in force and the consolidated rate shall be levied according to it, until the expiration of the said period

Depreciation.

(e) if during the currency of any period mentioned in sub-section *(1)* the value of a building suffers depreciation from any cause proved to the satisfaction of the Chairman to have been beyond the control of the owner or occupier thereof, the Chairman shall, as soon as practicable on application being made to him in writing by the owner or occupier of such building cause it to be re-valued and such re-valuation shall be in force from the beginning of the quarter following the date of the application and the consolidated rate shall be levied according to it until the expiration of the said period

[1] *Assessment of Buildings and Land to the consolidated Rate*

Annual value of building or land how to be ascertained

151. For the purpose of assessing land and buildings to the consolidated rate,—

(*a*) the annual value of land, and the annual value of any building erected for letting purposes or ordinarily let, shall be deemed to be the gross annual rent at which the land or building might reasonably be expected to let from year to year, less, in the case of a building an allowance of ten *per cent* for the cost of repairs and for all other expenses necessary to maintain the building in a state to command such gross rent, and

(*b*) the annual value of any building not erected for letting purposes and not ordinarily let shall be deemed to be five *per cent* on the sum obtained by adding the estimated present cost of erecting the building, less a reasonable amount to be deducted on account of depreciation, if any, to the estimated value of the land valued with the building as part of the same premises

Provided as follows —

(*i*) the annual value of *bustee* land shall be deemed to be the gross annual rent at which the land might reasonably be expected to let from year to year, *plus* the gross annual rent at which the huts or structures erected by the tenants might reasonably be expected to let from year to year, after deducting therefrom the rent of the lands and an allowance of ten *per cent* for the cost of repairs and for all other expenses necessary to maintain such huts or structures in a state to command such gross rent,

(*ii*) in calculating the value of land under clause (*a*), the value of any machinery thereon shall be excluded,

(*iii*) when a building is occupied by the owner under such exceptional circumstances as to render a valuation of five *per cent* on the cost of erecting the building, less depreciation, excessive, a lower percentage may be taken

(*iv*) when any building has been valued at a special percentage taken under proviso (*iii*), it may be re-valued at any time after the exceptional circumstances referred to in that proviso have ceased to exist

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[1] As to the exclusion of certain items in assessing land to the consolidated rate *see* s 357 (*4*) *post* p 33

As to the assessment of the property of the Port Commissioners *see* the Calcutta Port Act, 1890 (Ben Act 3 of 1890) ss 59 C to 66 B, 66 D to 66 L in Vol II of this Code

of 1899.]

(Part IV—Taxation—Chapter XII—Rates—Sec 152)

152. (*1*) All valuations of buildings and lands situated in the districts mentioned in column 1 of Schedule VII, which have been made by competent authority and are in force at the commencement of this Act, shall remain in force for the periods terminating on the dates respectively prescribed in that behalf in column 2 of that Schedule, and the annual value at which buildings and lands in each such district are to be assessed after the date so prescribed shall be fixed by the Chairman for a period of six years, and thereafter for successive periods of six years — Assessment of annual value and duration of assessment

(*2*) Provided as follows — Provisos as to—

(*a*) for the purpose of dividing Calcutta into districts under section 154, the Chairman may retain the valuation of the buildings and lands in any part of Calcutta for a further period not exceeding six years, or may make a re-valuation for a less period than six years, — division of Calcutta into districts

(*b*) *bustee* lands, with the huts upon them, or lands that are waste or are used for agricultural purposes, may be valued annually at the discretion of the Chairman, and shall be so valued on the application of the owner, and, when such lands are not re-valued, the former valuation shall remain in force from year to year until a re-valuation is made, — *bustees* and waste and agricultural lands

(*c*) any building or land the valuation of which has been cancelled on the ground of irregularity or which for any other reason has no annual value legally assigned to it, may be valued at any time for such period as remains unexpired in the district in which it is included under section 154, — unvalued buildings and lands

(*d*) if, during the currency of any period mentioned in sub section (*1*), any substantial alteration and improvement is made in any building, the Chairman may cause such building to be re-valued and such re-valuation shall be in force and the consolidated rate shall be levied according to it, until the expiration of the said period, — alterations and improvements

(*e*) if, during the currency of any period mentioned in sub section (*1*), the value of a building suffers depreciation from any cause proved to the satisfaction of the Chairman to have been beyond the control of the owner or occupier thereof, the Chairman shall, as soon as practicable, on application being made to him in writing by the owner or occupier of such building, cause it to be re-valued, and such re-valuation shall be in force from the beginning of the quarter following the date of the application, and the consolidated rate shall be levied according to it, until the expiration of the said period, — depreciation

(3) When the objection has been determined the order passed shall be recorded in the register of objections together with the date of such order

Appeal to Small Cause Court

162. (1) Any person dissatisfied with the orders passed on his objection may appeal to the Court of Small Causes having jurisdiction in the place where the building or land is situated

(2) Such appeal must be presented to the Court of Small Causes within thirty days of the decision of the objection under section 161 and must be accompanied by an extract from the register of objections containing the orders objected to

(3) The provisions of Parts II and III of the Indian Limitation Act 1877 [1] shall apply to every such appeal — 1 of

(4) No appeal shall be admitted under this section unless an objection has first been taken under section 161

Valuation when to be final

163 (1) Every valuation made by the Chairman under this Chapter shall subject to the provisions of sections 160 161 and 162 be final

(2) Every determination made by the Chairman under section 161 shall subject to the provisions of section 162 be final

(3) Every decision made by the Court of Small Causes under section 162 shall subject to the provisions of section 6 [2] of the Presidency Small Cause Courts Act 1882 or section 25 [3] of the Provincial Small Cause Courts Act 1887 as the case may be be final — 1 of 1 / 9 of 1

Keeping of assessment book

164 (1) The annual value fixed under this Chapter shall be entered in one or more books to be kept for the purpose at the Municipal Office wherein shall also be written—

(a) the number of each premises

(b) the description of each premises

(c) the name and place of abode of the person or persons primarily liable to pay the consolidated rate

(d) the amount of the valuation

(e) the amount payable quarterly on account of the said rate

(f) if the premises are exempted from payment of the said rate the ground of the exemption and

(g) such other particulars if any as the Chairman may from time to time direct

(2) The particulars mentioned in sub section (1) may be continued in as many books as the Chairman may from time to

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[1] Act 15 of 1877 has been repealed and re enacted by the Indian Limitation Act 1908 (9 of 1908) printed in the General Acts 1904-09 Ed 1909 p 4 6 and the reference should now be construed as a reference to the corresponding Parts of that Act — see the General Clauses Act 1897 (10 of 1897) s 8 in the General Acts 1887 7 Ed 1909 p 5 3

[2] Printed in the General Acts 1874 86 Ed 1909 p 401

[3] Printed in the General Acts 1887 97 Ed 1909 p 17

of 1899.]

(*Part IV.—Taxation.—Chapter XII.—Rates.—Secs. 165-167.*)

time determine, which shall together constitute a book to be called the "Assessment-book."

(3) When the name of the owner or occupier of any premises is not known, it shall be sufficient to designate him in the assessment-book as "the owner" or "the occupier," as the case may be.

Entry of names of owners and occupiers in assessment book

165. (1) Any owner or occupier may at any time apply to the Chairman to have his name entered as owner or occupier in the assessment-book, and the Chairman shall, unless there is sufficient reason to refuse such application (the reason for which refusal shall be recorded in writing), cause such name to be entered in the assessment-book.

(2) Where there are gradations of owners or occupiers, and doubt exists as to who is entitled to have his name entered in the assessment-book as owner or occupier of the premises, the Chairman shall determine which of the several owners or occupiers is so entitled, and his decision shall remain in force for the purposes of this Act, unless and until it is set aside by the order of a competent Court.

(3) No owner or occupier whose name is not entered in the assessment-book shall be entitled to object that any bill, notice of demand, warrant or other notice of any kind required by this Act, to be served on the owner or occupier of a building or land has not been made out in his own name.

Provisional registration as owner of premises.

166. (1) If any person who has paid the owner's share of the consolidated rate in respect of any building or land for the last preceding quarter applies to have his name entered in the assessment-book as owner of such building or land, and if there is no opposition to the application, but the Chairman rejects or postpones it for want of evidence, the applicant may claim to have his name provisionally registered as owner of the building or land.

(2) Upon such registration being made such person shall enjoy all the privileges and be subject to all the liabilities attaching under this Act, to the owner of such building or land so long as no other person claims to have his name entered in the assessment-book or provisionally registered as owner thereof:

Provided that no person shall be entitled to vote at any election by reason of his name being provisionally registered as owner of any building or land.

(3) A list shall be published annually, in such manner as the Chairman may determine, stating the names of all persons whose names are provisionally registered under this section, and the premises in respect of which they are so registered.

Transfer to assessment book of names provisionally registered.

167. Any name provisionally registered as that of an owner of any building or land shall, after three years, if no objection be taken, be transferred to the assessment-book as that of the owner of such premises.

Amendment of assessment book.

168. (*1*) Notwithstanding anything contained in section 163, the Chairman may at any time amend the assessment-book—

(*a*) by inserting therein the name of any person whose name ought, in his opinion, to be so inserted, or by inserting any building or land which is in his opinion, liable to the consolidated rate, or by inserting a valuation when the building or land liable to be valued has not been valued, or

(*b*) by striking out the name of any person or by striking out any building or land which is, in his opinion, not liable to the consolidated rate, or by reducing the amount of any valuation

Provided that, whenever it is proposed to make any amendment under clause (*a*) notice shall be given to persons interested, of a day, not being less than fifteen days from the service of the notice, on which it is intended to make the amendment

(*2*) If any amendment be made under clause (*a*), any person interested in such amendment may object by written application to the Chairman, to be delivered at the Municipal Office three clear days before the day fixed in the said notice, and the provisions of sections 160 to 163 shall, so far as may be practicable, apply to such objections

Period for which revised valuations to continue in force.

169. When the valuation of any building or land is revised in consequence of an objection made under section 160 or an appeal preferred under section 162, the revised valuation shall continue in force for the unexpired portion of the period for which the first-mentioned valuation was made, and no longer

Effect of entries in assessment book.

170. (*1*) The assessment calculated on the valuation for the time being shown in the assessment-book shall be deemed to be the amount payable during the whole period for which the valuation is in force

(*2*) When any amendment has been made in the assessment-book the said period shall be calculated from the commencement of the quarter next succeeding that in which the notice of objection was delivered under section 160 or section 168, subsection (*2*) or, if no such notice has been delivered, then from the commencement of the quarter next succeeding that in which such amendment was made, and until that time the old valuation shall continue in force, notwithstanding that the period for which it was made may have expired

[1] *Payment and recovery of the consolidated rate*

Payment of consolidated rate.

171. One-half of the consolidated rate shall be payable by the owners of the buildings and lands, and the other half by

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[1] As to the payment of the consolidated rate by the Port Commissioners see the Calcutta Port Act 1890 (Ben Act 3 of 1890) ss 64 66 M, 66 N in Vol II of this Code

the occupiers thereof; and each such instalment shall be payable on or before the fifteenth day of April, the fifteenth day of July, the fifteenth day of October and the fifteenth day of January for the quarters respectively commencing on the first day of each of those months

172. If the annual value of any building or land, as determined under this Chapter, exceeds in any case the amount of rent payable to the owner, the owner may in such case recover from the person who pays him rent the difference between the sum assessed upon him as the owner's share of the consolidated rate and the sum at which he would have been assessed had the building or land been valued only at the amount of rent actually payable to him, and such difference shall be added to the rent and shall be recoverable as rent by the owner from the person liable for the payment of the rent

Recovery by owner from tenant in certain cases of part of the owner's share of the consolidated rate

173. When any building or land whereon the consolidated rate is assessed has remained unoccupied and unproductive of rent for the period of sixty or more consecutive days during any year, the person liable to pay the owner's share of the consolidated rate shall, if written notice of the facts be given to the Chairman, be liable to pay only one-fourth of the consolidated rate due on account of such period; and, if more than one-fourth of the consolidated rate has been paid in advance, the surplus shall, on demand, be refunded

Refund of owner's share of consolidated rate for period of vacancy

174. When any building or land whereon the consolidated rate is assessed is unoccupied, the person liable to pay the occupier's share of the rate up to the beginning of the period of the vacancy shall, if he has paid for the whole quarter, be entitled to a refund of all moneys paid by him on account of the rate for the said period, or for the period during which the building or land has been occupied by a new occupier, if written notice of the facts has been given to the Chairman.

Refund of occupier's share of consolidated rate for period of vacancy or of occupation by new occupier

175. Every notice referred to in section 173 or section 174 must be given during the period for which the building or land is unoccupied and unproductive of rent, or during the period of the vacancy, as the case may be, and such period shall be calculated from the date on which such notice is delivered at the municipal office

Notice under section 173 or section 174 when to be delivered

176. No refund shall be made under section 173 or section 174 unless the same is applied for within six months from the date on which the notice was delivered as aforesaid

Application for refund when to be made

177. Whenever any building or land which has been unoccupied is re-occupied during any quarter there shall forthwith be payable in respect of such building or land the full occupier's share of the consolidated rate for the period between the date of re-occupation and the last day of the quarter.

Rate payable from date of re-occupation to last day of the quarter

178. If any building is occupied by more than one person holding in severalty, or is valued at less than two hundred rupees, the Chairman may, notwithstanding anything contained

Power to levy entire rate from owner in certain cases

in section 171, levy the entire consolidated rate from the owner of the building

Recovery from occupier of portion of rate paid by owner under section 178

179. When the entire rate is paid by the owner of any building under section 178, such owner may, if there be but one occupier of the building, recover from such occupier half of the rate so paid by him, and may, if there be more than one occupier, recover from each occupier half of such sum as bears to the entire amount of rate so paid by the owner the same proportion as the value of the portion of the building in the occupation of such occupier bears to the entire value of such building

Consolidated rate to be paid by owner of land in *bustee* in certain cases

180. (*1*) Notwithstanding anything contained in section 171, the entire consolidated rate leviable upon—

(*a*) *bustee* land,

(*b*) huts situated on *bustee* land, and

(*c*) any masonry building situated in a *bustee* on land which is not held on a lease for a term exceeding ten years,

shall, after deducting therefrom a sum equal to one-eighth of such rate be paid by the owner of such land

(*2*) The sum so deducted shall be retained by the owner of the land as a set-off against the expenses which may be incurred in collecting the portion of the rate recoverable under section 182 from the owners of huts or such masonry buildings as aforesaid and as a commutation of all refunds in respect of huts or such masonry buildings as aforesaid which are vacant or which may be removed or destroyed during the continuance of the period for which the rate is leviable

Consolidated rate not payable on certain huts on *bustee* land

181. The consolidated rate shall not be payable on account of any new huts built or any huts enlarged on *bustee* land during the year for which the valuation remains in force under proviso (*b*) to section 152

Recovery from tenants of part of the rate paid by owner of land in *bustee*

182. Whenever the consolidated rate is leviable on *bustee* land, or on any masonry building referred to in clause (*c*) of section 180, the owner of the land may recover from the owner of each hut or each such masonry building half the consolidated rate paid by him for the land on which the building stands, and the entire consolidated rate payable on account of the building

Owner's powers etc in recovering moneys under section 179 or 182

183. Every owner who is entitled under section 179 or section 182 to recover any sum from the occupier of any building or of any portion thereof, or from the owner of any hut or masonry building in a *bustee*, shall have, for the recovery of such sum, all remedies, powers, rights and authorities which he has for the recovery of rent

(Part IV—Taxation—Chapter XII—Rates—Chapter XIII—Tax on Carriages and Animals—Secs 184-188)

Power to except *bustee* from sections 180, 182 and 183

184. With the previous sanction of the General Committee, the Chairman may, by order, from time to time and for such period as may be specified in the order, except any *bustee* or any part of a *bustee* from the operation of sections 180, 182 and 183, and while any such order is in force in respect of any *bustee* or part thereof, the other provisions of this Act as to the payment and recovery of the consolidated rate shall apply to such *bustee* or part

Requisition for and provisional registration of name of owner

185. The Chairman may, by written notice, require the occupier of any building or land to furnish him within fifteen days with the name and address of the owner of such building or land, and such name and address when so furnished shall be registered provisionally in the assesment-book

Occupier liable to owner's rate on failure to furnish owner's name and address

186. If the occupier of any building or land refuses or neglects to comply with a notice served under section 185, he shall be liable to pay the rate payable by the owner on account of such building or land, and on non-payment thereof the Chairman may recover the same by distress and sale of any movable property found in the building or on the land

Provided that no arrear which has remained due from the owner of any building or land for more than one year shall be so recovered from the occupier thereof

Payment of assessment how affected by objections to valuation

187. *(1)* When an objection to a valuation has been made under section 160, the consolidated rate shall, pending the final determination of the objection, be paid on the same assessment as before

(2) If, in consequence of any such objection an amendment in any valuation is made which alters the amount of the assessment, the difference, if too much has been paid shall be repaid or refunded to the objector or allowed to be set off against any present or future demand of the Corporation against him under the provisions of this Act, and if too little has been paid, shall be deemed to be an arrear of the consolidated rate and shall be payable and recoverable accordingly

CHAPTER XIII

TAX ON CARRIAGES AND ANIMALS

Tax to be imposed

188. *(1)* A tax, at rates not exceeding those respectively prescribed in Schedule VIII shall be imposed upon all carriages and animals specified in that Schedule and kept in Calcutta except—

(a) carriages none of the wheels of which exceed twenty-four inches in diameter,

(b) carriages kept for sale by *bonâ fide* dealers in such carriages and not used for any other purpose;

(c) carriages and animals belonging to the Government or the Corporation;

(d) carriages and animals certified by the Chairman or the Commissioner of Police to be used by the owner thereof for municipal or police purposes;

(e) tram-cars and animals employed in working street tramways;

(f) horses referred to in section 25[1] of the Indian Volunteers Act, 1869; and

(g) horses which any person exempted from the operation of any municipal tax by an order issued under section 3[2] of the Municipal Taxation Act, 1881, is bound by the regulations of the service to which he belongs to keep.

(2) The rates at which the said tax is to be imposed shall be determined annually in the Budget Estimate prepared under Chapter IX.

Tax when payable.

189. The said tax shall be payable half-yearly in advance.

Payment of tax on hackney-carriage and animal before registration.

190. The Registrar appointed under section 5[3] of the Calcutta Hackney-carriage Act, 1891, shall, before registering any hackney-carriage, satisfy himself that the tax imposed under section 188 upon such carriage and the animals used therefor has been duly paid for the last preceding half-year and the next ensuing half-year.

Obligation to furnish statement and payment of tax.

191. (1) The owner or the person in charge of any carriage or animal liable to the tax imposed under section 188 shall, *before the first day of May and the first day of November in each year*,—

(a) forward to the municipal office a written statement signed by him containing a description of all carriages and animals owned by him or in his charge which are liable to the tax; and

(b) at the same time pay to the Corporation such sum as is payable by him for the half-year commencing on the first day of April or October (as the case may be) for the carriages and animals specified in the said statement, according to the rates prescribed in Schedule VIII.

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[1] Printed in the General Acts, 1869 ... p. ...
[2] Printed in the General Acts, 18... p. ...
[3] Printed ante ...

of 1899.]

(Part IV.—Taxation.—Chapter XIII.—Tax on Carriages and Animals.—Secs. 192-194.)

(2) Any person who becomes the owner or takes charge between the first day of April and the first day of October, or between the first day of October and the first day of April, of any carriage or animal which is liable to the tax imposed under section 188 shall, within one week of his so becoming owner or taking charge,—

(i) forward to the municipal office a statement of the kind prescribed in clause (a), and

(ii) at the same time, pay to the Corporation the amount payable for the whole of the then current half-year according to the rates prescribed in Schedule VIII.

(3) If the Chairman is satisfied that any such carriage has not been used within the half-year, or that any such carriage or animal has been kept for only a portion of the then current half-year, he may refund or remit the whole of the amount so payable or such portion thereof as he may think fit.

(4) For the purposes of this section a livery stable-keeper shall be deemed to be the owner or to be in charge of every animal in his stables.

192. The Chairman may from time to time, by written notice, require the occupier of any building or land to forward to him a statement, signed by such occupier, showing— Power to require occupier to furnish statements.

(1) the name and address of every person who owns or is in charge of any carriage or animal which is kept in or on such building or land and is liable to the tax imposed under section 188, and

(2) a description of all such carriages and animals.

193. (1) When any person pays to the Corporation the amount of the said tax which is payable in respect of all carriages and animals kept by him, the Chairman shall grant him a license to keep such carriages and animals during the current half-year ending upon the thirtieth day of September or the thirty-first day of March next after the grant of such license, and no longer. Grant of license on payment of tax.

(2) The Chairman may at any time grant a license for any previous half-year for which no license has been taken out, on payment of the amount due for that half-year, but the production of such a license shall not afford a valid defence if the licensee is prosecuted for failing to take out a license within the time required by this Act.

194. The Chairman may, at his discretion, compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages for hire, or animals for sale or hire, for a certain sum to be paid for the carriages or animals so kept by such persons in lieu of the tax imposed under section 188. Power to compound with livery stable-keepers, etc., for tax.

Production of books and accounts by livery stable keepers

195. The Chairman may, by written notice, require any person who carries on the trade or business of a livery stable-keeper to produce, for the inspection of the Chairman or of any officer authorized by him in this behalf, all books and accounts relating to such trade or business.

Inspection of stables, etc, and seizure and disposal of carriages and animals

196. (*1* The Chairman may enter and inspect any stable or coach-house or any place wherein he has reason to believe that there is any carriage or animal liable to the tax imposed under section 188,

and, if the Chairman at any time finds any carriage or animal in respect of which no license has been obtained, he may, if the owner or person in charge of such carriage or animal is unknown, by written order authorize any of the subordinate officers of the Corporation to take possession of such carriage or animal; and the Chairman shall make such order as he may think fit respecting the custody thereof.

(2) If any person within the period of one month establishes his claim to the possession of such carriage or animal, the Chairman shall order it to be delivered to him on payment of the tax due together with such costs as the Corporation have reasonably incurred in taking possession of and keeping the same

(3) If no person within the said period satisfies the Chairman that he is entitled to the possession of such carriage or animal it may be sold for the recovery of the tax and costs aforesaid, and, if any person whose carriage or animal has been sold establishes his claim within six months to the net proceeds of such sale, the Chairman shall order the proceeds of such sale, after deducting the tax due and all costs incurred in consequence of the seizure and sale, to be delivered to him

List of licensees and carriages and animals taxed

197. (*1*) The Chairman shall from time to time cause to be prepared a list of the persons to whom, during the then current period of six months, licenses have been granted under section 193 and of the carriages and animals in respect of which the same have respectively been granted

(*2*) Such list shall be entered in distinct columns in a book to be kept at the municipal office, and such book shall be open to the inspection of any applicant.

CHAPTER XIV

TAX ON PROFESSIONS, TRADES AND CALLINGS

Licenses to be taken out annually

198. Every company or association or body of individuals which exercises in Calcutta, either by itself or by an agent, any profession, trade or calling whatsoever, and

every person who exercises in Calcutta any of the professions, trades or callings indicated in Schedule II,

shall annually take out a license and pay for the same such fee as is mentioned in that behalf in the said Schedule

Provided that the Chairman may, with the sanction of the General Committee,—

(*a*) remit or refund any portion of the fee so payable in respect of the exercise of any profession, trade or calling, if he is satisfied that the profession, trade or calling has been exercised for less than half the year only, or

(*b*) when any person is in the Chairman's opinion unable to pay the fee due for a license, exempt him from liability to take out such license or declare that he shall be entitled to take out a license under a lower class than that under which he is chargeable, or

(*c*) in any other case, exempt any person from liability to take out a license or declare that any person shall be entitled to take out a license under a lower class than before

199. (*1*) Every license mentioned in section 198 shall be granted by the Chairman, and shall specify— Grant, contents and duration of licenses

(*a*) the date of the grant thereof,

(*b*) the name of the company, association, body or person to which or to whom it is granted,

(*c*) the profession, trade or calling, and, if the license is a local license as defined in rule 2 of Schedule II, the place of business, in respect of which the license is granted, and

(*d*) the fee paid for the license

(*2*) Every such license shall have effect and continue in force from the commencement to the end of the financial year on account of which it is granted

(*3*) The Chairman may at any time grant a license for any previous financial year for which no license has been taken out, on payment of the fee which would have been payable therefor in the first instance, but the production of such a license shall not afford a valid defence if the licensee is prosecuted for failing to take out a license within the time required by this Act

200. The liability of any company, association, body or person to take out a license, and the class under which it or he shall be deemed bound to take out a license, shall be determined in accordance with the rules contained in Schedule II Liability and class how to be determined

(Part II —Taxation —Chapter XIV —Tax on Professions Trades and Callings —Chapter XV —Scavenging Tax —Secs 201 204)

Power of Chairman to require list of companies associations bodies or persons

201. The Chairman may by written notice require the occupier of any building or place of business to forward to him within seven days a list signed by such person of the names of all companies associations or bodies of individuals or persons carrying on any profession trade or calling therein, and of their respective professions trades and callings

Annual list of licensees

202. *(1)* As soon as may be after the first day of April in every year the Chairman shall prepare a list of the companies associations bodies and persons licensed for the next preceding financial year under this Chapter

(2) Such list shall contain the particulars specified in section 199 and shall be kept at the municipal office and be open to public inspection at all reasonable times

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CHAPTER XV

SCAVENGING TAX

Licenses to be taken out half-yearly and fee to be paid therefor

203. Every person who exercises in Calcutta any of the callings indicated in Part I of Schedule IX shall every half year take out a license and pay for the same a fee to be calculated according to the number of animals kept by him in the exercise of such calling at the rates mentioned in Part II of the said Schedule or at such other rates as may be prescribed by by-laws made under section 599 clause *(2)*

Provided that the Chairman may remit or refund the whole or any portion of the fee so payable by any person in respect of any half-year if he is satisfied that such person himself removes the offensive matter and rubbish accumulating on his premises or has exercised his said calling for a portion only of such half year

Grant contents and duration of licenses

204. *(1)* Every such license shall be granted by the Chairman and shall specify—

(*a*) the date of the grant thereof

(*b*) the name of the person to whom it is granted

(*c*) the calling in respect of which it is granted

(*d*) the animals in respect of which it is granted and

(*e*) the fee paid for it

(2) Every such license shall have effect and continue in force from the first day of April to the thirtieth day of September or from the first day of October to the thirty first day of March and shall be taken out not later than the first day of June or the first day of December as the case may be

(Part IV—Taxation—Chapter XV—Scavenging Tax—Chapter XVI—Tax on Petroleum—Chapter XVII—Tax on Carts—Secs 205 208)

205. (1) As soon as may be after the first day of April and the first day of October in every year the Chairman shall prepare a list of the persons licensed for the next preceding half year under this Chapter *Half yearly list of licensees*

(2) Such list shall contain the particulars specified in section 204 and shall be kept at the municipal office and be open to public inspection at all reasonable times

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CHAPTER XVI

TAX ON PETROLEUM[1]

206. (1) With the previous sanction of the Local Government the Corporation may by notification in the Calcutta Gazette prohibit the introduction into Calcutta for the purpose of storage therein of petroleum intended for consumption elsewhere *Storage and taxation of petroleum*

(2) No person shall introduce petroleum into Calcutta in contravention of any prohibition notified under sub section (1)

(3) When any notification has been published under sub section (1) a tax not exceeding four annas for every ten gallons may with the sanction of the Local Government be imposed in the manner provided by Chapter IX on all petroleum introduced into Calcutta for consumption therein

207. All petroleum introduced into Calcutta in contravention of any notification published under section 206 sub section (1) or of any by law made under section 559 clause (3) may be seized and confiscated and all petroleum confiscated under this section shall become the property of the Corporation *Confiscation of petroleum*

CHAPTER XVII

TAX ON CARTS

208. (1) Every cart kept or used within Calcutta or Howrah except— *Registration and numbering of carts*

(a) carts which are the property of the Government

(b) carts which are the property of the Corporation of Calcutta or the Commissioners of Howrah or any adjacent municipality and

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[1] For the general law as to petroleum see the Indian Petroleum Act 1899 (8 of 1899) in the General Acts [illegible] p 445

(*c*) carts which are kept at any place more than eight miles distant from Government House and are only temporarily and casually used within Calcutta or Howrah,

shall be registered at the Municipal office with the name and residence of the owner, and shall have the number of such registration affixed thereto in such manner as the Chairman may direct

(*2*) Such registration shall be made, and the said numbers assigned half-yearly on or after the first day of April and the first day of October in each year, upon such days as the Chairman may appoint in that behalf

Fees for registration and licences thereof

209. (*1*) A fee of four rupees shall be paid for each such registration

(*2*) The Chairman may, in his discretion, remit any portion of the said fee in respect of any cart which he is satisfied has been kept or used for a portion of the half-year only

(*3*) When any registered cart is transferred during any half year it shall be re-registered in the name of the person to whom it has been transferred, and a fee of four annas shall be paid for every such re-registration

(*4*) The total net proceeds of the fees half-yearly received by the Corporation for the registration of carts, after deduction of the charges incurred on account of such registration, shall be divided between the Corporation of Calcutta and the Commissioners of Howrah and such other municipalities adjacent to Calcutta or Howrah as the Local Government shall declare to be entitled to a share in such receipts, in such proportion as the Local Government may from time to time determine

Prohibitions

210. (*1*) *No person shall keep, or be in possession of, a* cart not duly registered as required by this Chapter.

(*2*) No owner or driver of a cart shall fail to affix the registration number required by section 208

Seizure and sale of unregistered carts and application of proceeds

211. (*1*) If any person owns or keeps any cart hereinbefore required to be registered, without having caused the same to be registered, the Chairman may seize such cart (provided the same be not employed at the time of the seizure in the conveyance of passengers or goods), together with the animals drawing the same, and detain them in a place to be appointed by him in this behalf

(*2*) If any cart or animals so seized be not claimed within ten days, it or they may be sold at auction by order of a Magistrate.

(*3*) The proceeds of such sale may be applied to defraying the expenses incurred on account of the seizure, detention and sale, and the surplus (if any), if not claimed within a further

period of twenty days shall be paid to the credit of the Municipal Funds

CHAPTER XVIII

SPECIAL PROCEDURE FOR RECOVERY OF THE CONSOLIDATED RATE AND OTHER TAXES

212. The provisions of this Chapter shall be deemed to be in addition to, and not in derogation of, any powers conferred by or under other Chapters for the collection or recovery of the consolidated rate and other taxes. Saving of other Chapters

The Consolidated Rate

213. (*1*) When the consolidated rate or any instalment thereof is due, the Chairman shall, with the least practicable delay, cause to be presented to the person liable a bill for the sum due. Presentation of bills

(*2*) Every such bill shall specify the period for which and the premises in respect of which the rate is charged.

(*3*) If any person is liable for the consolidated rate on account of more properties than one, the Chairman may charge to him in one or several bills, as the Chairman may think fit, the several sums payable by him on account of such properties:

Provided that if such person, by written notice to the Chairman, requests to be furnished with separate bills, the Chairman shall comply with such request in respect of all payments on account of the said rate for which such person becomes liable after receipt by the Chairman of such notice.

214. (*1*) If the amount for which any bill has been presented as aforesaid is not paid, within seven days from such presentation, into the municipal office or to an officer appointed to receive the same, the Chairman may cause to be served upon the person liable a notice of demand in the form contained in Schedule X, or in a form to the like effect. Notice of demand

(*2*) For every such notice of demand a fee of such amount, not exceeding one rupee, as may in each case be fixed by the Chairman, shall be payable by the said person, and shall be included in the costs of recovery.

215. (*1*) If the person liable for the payment of the rate does not within seven days from the service of the notice of demand pay the sum due, or show sufficient cause to the satisfaction of the Chairman for non-payment of the same, such sum, with all costs of recovery, may be levied under a warrant Distraint

(Part IV—Taxation—Chapter XVIII—Special Procedure for Recovery of the Consolidated Rate and other Taxes—Secs. 223-227)

Liability of purchaser for vendor's share of consolidated rate

223. The purchaser of any building or land in respect of which any sum is due at the time of the purchase on account of the share of the consolidated rate payable by the owner shall be liable for the amount due on account of such share for any period not exceeding one year prior to the purchase

Execution of distress warrant outside Calcutta

224. If no sufficient movable property belonging to a defaulter can be found within Calcutta, or, where the defaulter is the occupier of premises in respect of which the consolidated rate is due, if no sufficient movable property can be found on such premises, the Chairman may issue a warrant for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any Magistrate in Bengal outside Calcutta, and any Magistrate to whom a warrant is so issued shall endorse the same and cause it to be executed, and shall remit the proceeds of the sale to the Chairman; and such proceeds shall be dealt with as prescribed by section 221

Distraint not unlawful for want of form

225. No distress levied under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the notice schedule, summons, notice of demand, warrant of distress inventory or other proceeding relating thereto, nor shall such person be deemed a trespasser on account of any irregularity committed by him, but all persons aggrieved by such irregularity may recover, in any Court of competent jurisdiction, full satisfaction for any special damage sustained by them

Power to take summary proceedings against persons about to leave Calcutta

226. *(1)* If the Chairman at any time has reason to believe that any person from whom any sum is due on account of the consolidated rate is about forthwith to remove from Calcutta, the Chairman may direct the immediate payment by such person of the sum so due by him and cause a bill for the same to be presented to him

(2) If on presentation of such bill, the said person do not forthwith pay the sum due by him, the amount shall be leviable by distress and sale in the manner hereinbefore prescribed except that it shall not be necessary to serve upon the defaulter any notice of demand, and the Chairman's warrant for distress and sale may be issued and executed without any delay

Power to sue for arrears if necessary

227. Instead of proceeding against a defaulter by distress and sale as hereinbefore provided or after a defaulter has been so proceeded against unsuccessfully or with only partial success, any sum due, or the balance of any sum due, as the case may be, by such defaulter, on account of the consolidated rate together with all costs, may be recovered from him by [illegible] Court of competent jurisdiction.

of 1899.]

(Part IV.—Taxation—Chapter XVIII—Special Procedure for Recovery of the Consolidated Rate and other Taxes—Secs. 228-232)

228. The consolidated rate due in respect of any building or land shall, subject to the prior payment of the land-revenue, if any, due to the Government thereupon, be a first charge upon the said building or land and upon the movable property, if any, found within or upon such building or land and belonging to the person liable for such rate. The consolidated rate to be a first charge on premises.

Other taxes

229. (*1*) When any sum is due on account of— Power to prosecute or serve notice of demand

(*a*) the tax on carriages and animals (other than hackney carriages and animals used therefor),

(*b*) the tax on professions, trades and callings or

(*c*) the scavenging tax,

the Chairman may either prosecute the defaulter under section 578 or cause to be served on him a notice of demand in the form contained in Schedule X or in a form to the like effect.

(*2*) The provisions of section 214, sub-section (*2*), and sections 216 and 225 shall apply to every such notice of demand.

230. Within seven days after the service of any such notice of demand, the defaulter may either— Election by defaulter to appear before Magistrate or Chairman

(*a*) pay the sum demanded, together with any fee imposed under section 214, sub-section (*2*), or

(*b*) send a letter to the Chairman, enclosing the sum demanded and electing to be prosecuted under section 578, or

(*c*) appear before the Chairman, personally or by agent, and contest the demand.

231. (*1*) If the defaulter adopts the procedure provided by clause (*b*) of section 230, he shall be prosecuted as therein mentioned, and the sum deposited under that clause shall be deducted from the amount of any fine imposed under section 578. Procedure thereupon

(*2*) If he contests the demand in pursuance of clause (*c*) of the said section, the decision of the Chairman, after hearing anything that may be urged by him or on his behalf, shall be final; and if the Chairman finds that the whole amount of the demand is due, he may, by way of penalty for previous failure to pay such amount, increase the same by any sum not exceeding fifty *per cent* thereof.

232. If, within seven days after the service of any such notice of demand, the defaulter has not taken any of the courses permitted by section 230, the Chairman may, by way of penalty for previous failure to pay such amount, increase the same by any sum not exceeding fifty *per cent* thereof. Powers of Chairman where defaulter does not appear before Magistrate or Chairman

Liability of purchaser for vendor's share of consolidated rate

223. The purchaser of any building or land in respect of which any sum is due at the time of the purchase on account of the share of the consolidated rate payable by the owner shall be liable for the amount due on account of such share for any period not exceeding one year prior to the purchase.

Execution of distress warrant outside Calcutta

224. If no sufficient movable property belonging to a defaulter can be found within Calcutta, or, where the defaulter is the occupier of premises in respect of which the consolidated rate is due, if no sufficient movable property can be found on such premises, the Chairman may issue a warrant for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any Magistrate in Bengal outside Calcutta, and any Magistrate to whom a warrant is so issued shall endorse the same and cause it to be executed, and shall remit the proceeds of the sale to the Chairman; and such proceeds shall be dealt with as prescribed by section 221

Distraint not unlawful for want of form

225. No distress levied under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the notice, schedule, summons, notice of demand, warrant of distress, inventory or other proceeding relating thereto, nor shall such person be deemed a trespasser on account of any irregularity committed by him, but all persons aggrieved by such irregularity may recover, in any Court of competent jurisdiction, full satisfaction for any special damage sustained by them

Power to take summary proceedings against persons about to leave Calcutta

226. (1) If the Chairman at any time has reason to believe that any person from whom any sum is due on account of the consolidated rate is about forthwith to remove from Calcutta, the Chairman may direct the immediate payment by such person of the sum so due by him and cause a bill for the same to be presented to him

(2) If, on presentation of such bill, the said person do not forthwith pay the sum due by him, the amount shall be leviable by distress and sale in the manner hereinbefore prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand, and the Chairman's warrant for distress and sale may be issued and executed without any delay.

Power to sue for arrears, if necessary

227. Instead of proceeding against a defaulter by distress and sale as hereinbefore provided, or after a defaulter has been so proceeded against unsuccessfully or with only partial success, any sum due, or the balance of any sum due, as the case may be, by such defaulter, on account of the consolidated rate together with all costs, may be recovered from him by [illegible] Court of competent jurisdiction

of 1899.]

(*Part IV—Taxation—Chapter XVIII—Special Procedure for Recovery of the Consolidated Rate and other Taxes—Secs 228-232*)

228. The consolidated rate due in respect of any building or land shall subject to the prior payment of the land-revenue if any, due to the Government thereupon be a first charge upon the said building or land and upon the moveable property, if any found within or upon such building or land and belonging to the person liable for such rate — The consolidated rate to be a first charge on premises.

Other taxes

229. (*1*) When any sum is due on account of— — Power to prosecute or serve notice of demand

(*a*) the tax on carriages and animals (other than hackney carriages and animals used therefor),

(*b*) the tax on professions, trades and callings or

(*c*) the scavenging tax

the Chairman may either prosecute the defaulter under section 578 or cause to be served on him a notice of demand in the form contained in Schedule X or in a form to the like effect

(*2*) The provisions of section 214, sub-section (*2*), and sections 216 and 225 shall apply to every such notice of demand

230. Within seven days after the service of any such notice of demand, the defaulter may either— — Election by defaulter to appear before Magistrate or Chairman

(*a*) pay the sum demanded, together with any fee imposed under section 214, sub section (*2*), or

(*b*) send a letter to the Chairman, enclosing the sum demanded and electing to be prosecuted under section 578, or

(*c*) appear before the Chairman, personally or by agent, and contest the demand

231. (*1*) If the defaulter adopts the procedure provided by clause (*b*) of section 230, he shall be prosecuted as therein mentioned and the sum deposited under that clause shall be deducted from the amount of any fine imposed under section 578 — Procedure thereupon

(*2*) If he contests the demand in pursuance of clause (*c*) of the said section, the decision of the Chairman, after hearing anything that may be urged by him or on his behalf, shall be final, and if the Chairman finds that the whole amount of the demand is due, he may, by way of penalty for previous failure to pay such amount increase the same by any sum not exceeding fifty *per cent* thereof

232. If, within seven days after the service of any such notice of demand the defaulter has not taken any of the courses permitted by section 230, the Chairman may, by way of penalty for previous failure to pay such amount, increase the same by any sum not exceeding fifty *per cent* thereof. — Powers of Chairman where defaulter does not appear before Magistrate or Chairman

(Part IV.—Taxation.—Chapter XVIII.—Special Procedure for Recovery of the Consolidated Rate and other Taxes.—Chapter XIX.—Supplemental Provisions.—Part V.—The Public Health, Safety and Convenience.—Chapter XX.—Water-supply.—Secs. 233-236.)

Distraint

233. (*1*) If, in any case referred to in section 231, sub-section (*2*) or section 232, the amount of the demand, together with the amount of any penalty imposed thereunder, be not forthwith paid, the same may, with all costs of recovery, be levied, under a warrant in the form of Schedule XI, or in a form to the like effect by distress and sale of the movable property of the defaulter.

(*2*) The provisions of section 215, sub-sections (*2*) and (*3*), sections 216 to 220, section 224 and section 225 shall apply whenever a warrant is issued under sub-section (*1*) of this section.

CHAPTER XIX

SUPPLEMENTAL PROVISIONS

Taxes not invalid for defect of form

234. No assessment and no charge or demand of any rate or other tax made under the authority of this Act shall be impeached or affected by reason of any mistake in the name, residence, place of business or occupation of any person liable to pay the tax, or in the description of any property or thing liable to the tax, or of any mistake in the amount of assessment or tax, or by reason of any clerical error or other defect of form;

and it shall be enough in any such tax on property, or any assessment of value for the purpose of any such tax, if the property taxed or assessed is so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof.

Cancellation of irrecoverable dues

235. The Corporation may order to be struck off the books any sum due on account of the consolidated rate or any other tax which may appear to them to be irrecoverable.

PART V.—The Public Health, Safety and Convenience.

CHAPTER XX.

WATER-SUPPLY.

Proprietary rights of the Corporation.

Public water-works etc vested in the Corporation

236. All public tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, taps and other water-works, whether made, laid or erected at the cost of the Municipal

(Part V.—The Public Health, Safety and Convenience.—Chapter XX.—Water-supply.—Secs. 237-241.)

Funds or otherwise, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank, shall be vested in the Corporation.

General duties of the Municipal Authorities in respect of the supply of water.

237. The Corporation shall provide a supply of filtered water within all parts of Calcutta, and a supply of unfiltered water within such parts of Calcutta as they may think fit, and shall cause such separate mains, pipes and taps to be laid and placed, and such tanks, engines, reservoirs and other works to be made and constructed either within or without Calcutta as may be necessary for the supply of filtered water in the principal public streets. Corporation to provide supply of filtered and unfiltered water.

238. (1) The Corporation shall erect sufficient and convenient public stand-posts for the gratuitous supply of filtered water for domestic purposes. Public stand-posts.

(2) All such stand-posts shall be supplied with a sufficient quantity of filtered water, and no unfiltered water shall be supplied thereto.

239. (1) The Corporation shall erect sufficient and convenient platforms for the gratuitous supply of water for bathing purposes. Bathing platforms.

(2) All such bathing platforms shall, as far as may be practicable, be supplied with filtered water; but if it is impracticable to supply any bathing platform with filtered water, unfiltered water shall be supplied therefor.

240. On all distribution pipes in the unfiltered water system the Chairman shall provide suitable hydrants for street watering, [illegible] ng down, hackney-carriage stands [illegible] together with such sluices, branches [illegible] e necessary for the efficient flushing of the municipal drains. Hydrants, etc., for street watering, etc.

241. (1) The Corporation shall gradually convert the existing intermittent system of supplying filtered water into a continuous system. Introduction of continuous system of supplying filtered water.

(2) Such conversion shall be completed—

(a) in the area newly added to Calcutta by the Calcutta Municipal Consolidation Act[1] within a period of seven years after the commencement of this Act, and

(b) in the rest of Calcutta within a period of five years after the commencement of this Act.

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[1] Ben. Act II of 1888 was repealed by s. 2 of the present Act, ante, p. [illegible]

Provided that the Local Government may, by notification in the Calcutta Gazette, extend either of the said periods.

Pressure of supply.

242. The pressure of the supply of filtered water shall, where the continuous system is in force, be not less than forty feet;

and the pressure of the supply of unfiltered water shall also be not less than forty feet, except during those hours when the pressure is locally reduced by street-watering, drain-flushing or extinguishing fire:

Provided that the General Committee may authorize a lower pressure in any case in which they may consider it impracticable to secure a pressure of forty feet.

Testing of purity of filtered water.

243. It shall be the duty of the Chairman to test the purity of the supply of filtered water once every week and to lay the result before the General Committee.

Use of water.

Use of filtered water.

244. Subject to the provisions of section 254, filtered water shall be supplied for domestic purposes only.

Prohibition of improper use of filtered water supplied for domestic purposes.

245. No person shall, without the written permission of the Chairman, use for other than domestic purposes filtered water supplied under this chapter for the said purposes.

Use of unfiltered water.

246. (*1*) Unfiltered water shall be used for public purposes such as—

(*a*) street-watering,

(*b*) flushing of municipal drains, public privies and urinals, *gully pits and hackney-carriage stands,*

(*c*) extinguishing fire,

and shall also be used for such other purposes as the Corporation may direct.

(*2*) Unfiltered water may also be used, free of charge,—

(*i*) for flushing privies and urinals on private premises connected with the sewers, and

(*ii*) for flushing drains on private premises, and for cleaning stables, cattle-shed and cow-houses occupied by animals which are not kept for profit or hire.

(*3*) Unfiltered water shall not be used for domestic purposes.

Substitution of unfiltered for filtered water.

247. (*1*) Wherever filtered water is already supplied for flushing privies or urinals, the Chairman may, at the expense of the Municipal Funds, and not otherwise, stop the supply of

(Part V — The Public Health, Safety and Convenience — Chapter XX.— Water-supply —Secs 248-250)

filtered water, and in lieu thereof provide unfiltered water for such privies or urinals

(2) Where, in any case not referred to in sub section *(1)*, filtered water is supplied to any person for any purpose other than a domestic purpose, the Chairman may at any time cut off such supply, and, if such person desires to continue using water for any purpose for which filtered water was so supplied, he must obtain a supply of unfiltered water at his own expense

Supply of water to premises and ships

248. Subject to the provisions of section 283, the occupier of every building connected with the water-supply shall be entitled to have, free of further charge, not more than four thousand gallons of filtered water for every rupee paid to the Corporation as water-rate on account of such buildings together with a sufficient supply of unfiltered water for flushing privies, urinals and drains and for cleaning stables, cattle-sheds and cow-houses occupied by animals which are not kept for profit or hire Right of occupier of connected building to receive water in consideration of water rate

249. Whenever the Chairman considers it practicable and consistent with the maintenance of an efficient water-supply to do so, he shall allow any person living in a masonry building, and paying the water-rate hereinbefore mentioned to lay down service-pipes from the mains of the Corporation for the purpose of bringing into the premises occupied by such person a supply of filtered and unfiltered water for use therein Power to allow occupier of masonry building paying water rate to lay down service pipes

250. (1) Any occupier of a masonry building who holds the same direct from the owner may, by written notice signed by him, require the owner to provide all such necessary works as may be required for bringing into the premises a supply of filtered water for domestic purposes and a supply of unfiltered water for the purposes specified in section 246, sub section (2) Requisition by occupier on owner to provide works for supply of water

(2) Every such notice shall contain an undertaking on the part of the occupier—

(a) to pay, during the residue of his term of occupation, interest at the rate of one *per cent per mensem*, calculated from the date of the completion of the works, on the cost of all works so provided by such owner, and

(b) if the premises do not abut upon some street in which there is a supply-main to pay the cost of connecting the premises with the nearest supply-main.

Provision or completion of works by occupier in default of owner and deduction of expenses from rent

251. If any owner upon whom a notice has been served under section 250 does not, within one month from such service, cause such necessary works as aforesaid to be completed, the occupier who gave the notice may cause the works to be provided or completed, and may deduct from the rent payable by him to such owner the expenses incurred by him in respect of such works, except so much of such expenses as may have been incurred under the circumstances mentioned in clause (*b*) of the said section 250.

Recovery of sums payable to owner

252. Any owner to whom any sum is payable under section 250 may recover such sum from the person liable to pay the same as if it were rent payable by such person.

Compulsory supply of water from main

253. Whenever it appears to the Chairman that any building is without a proper supply of water, and that such a supply of water can be furnished from a main not more than one hundred feet distant from any part of such building, the Chairman may, by written notice, require the owner to obtain such supply and to execute all such works as may be necessary for that purpose

Provided that no action shall be taken under this section in any case in which the owner satisfies the Chairman that he is too poor to bear the cost of the said works:

Provided also that, if any building in respect of which any notice is issued under this section is occupied by a person other than the owner, the occupier shall be bound, if the Chairman so directs, to make to the owner, in respect of all works executed in pursuance of such notice, the payments prescribed by clause (*a*) or clauses (*a*) and (*b*), as the case may be, of section 250; and such payments may be enforced in the manner prescribed by section 252.

Sale of water for other than domestic purposes

254. *(1) The Chairman may at his discretion supply filtered or unfiltered water for any purpose other than a domestic purpose*, on receiving a written application specifying the purpose for which such supply is *required and the quantity likely to be* consumed

Provided that only filtered water shall be so supplied for use by persons who manufacture articles for consumption by human beings or for cow-houses where cows are kept for the purpose of supplying milk for sale

(*2*) For all water supplied under sub-section (*1*), payment shall be made at such rate as may be prescribed by the General Committee

(*3*) When any application under sub-section (*1*) is received, the Chairman may subject to such charges or rates as may have been fixed by the General Committee, place, or allow to be placed, the necessary service-pipes, taps and works (including water-meters), of such dimensions and character as may be fixed

by the General Committee, and may arrange for the supply of water through such pipes, taps, works and meters

255. (*1*) The Corporation shall, as far as practicable, supply filtered water gratuitously for use for domestic purposes on ships for the time being lying at the jetties or in the docks of the Commissioners for the Port of Calcutta — Supply of filtered water to ships

(*2*) The Chairman shall on demand be bound to supply every ship leaving the jetties or the docks of the Commissioners for the Port of Calcutta with a reasonable quantity of filtered water for use on the voyage at such price, not exceeding five rupees for every thousand gallons, as the Corporation may determine

Water connections

256. (*1*) For each premises connected with the filtered water supply after the commencement of this Act there must be a separate service-pipe from the main — Separate service pipes for separate premises

(*2*) In any case in which a service-pipe from a main is at the commencement of this Act used for supplying filtered water to two or more premises, the Chairman may, by written notice, require the owner of each such premises to lay down a separate service pipe and the expense of so doing shall be borne by all such owners in such proportion as may be determined by the General Committee

257. (*1*) Separate stop cocks must be provided for controlling the supply of unfiltered water for the purposes mentioned in clauses (*i*) and (*ii*) respectively of section 246 — Separate stop cocks and under ground hydrants or taps for supply of unfiltered water to private premises

(*2*) When unfiltered water is supplied for any of the purposes mentioned in clause (*ii*) of section 246, it must be so supplied as to be capable of being drawn only from hydrants or taps fixed below the surface of the ground

258. (*1*) When the continuous system of supplying filtered water is about to be applied to any premises, or when any premises are about to be connected with the mains of the Corporation, the Chairman may, by written notice, require the owner of the premises to fix a stop-cock in some position outside the premises which is accessible at all times from the nearest street — Outer stop cocks

(*2*) If when any such notice is issued in respect of any premises, such premises are already connected with the mains of the Corporation, the expense of fixing such stop-cock shall be paid out of the Municipal Funds

259. (*1*) Filtered or unfiltered water supplied under this Chapter to any premises shall be supplied through a ferrule, of the size prescribed in Schedule XIV: — Size of ferrules

Provided as follows:—

(*a*) the Local Government may, on the recommendation of the Corporation, substitute any other scale

for the scale of ferrules prescribed in the said Schedule

(*b*) if any premises be so situated that the ferrule prescribed therefor in the said Schedule or under proviso (*a*) to this section is too small to pass within a period of six hours the daily supply of water to which the occupier is entitled under section 248 the Chairman shall permit the use of a larger ferrule for such premises

(*2*) Where a ferrule used at the commencement of this Act for the supply of water to any premises is larger than that prescribed for the premises in Schedule XIV or under proviso (*a*) to this section the Chairman may at the expense of the Municipal Funds and after giving one month's notice in writing to the owner of the premises substitute for such ferrule one of the size so prescribed

Construction of service pipes ferrules and works

260 (*1*) The service pipes for carrying water from the mains of the Corporation into any premises and the pipes taps and works (other than ferrules) within such premises shall be of such character dimensions and materials as the General Committee may fix and approve and shall be made and constructed at the expense of the person requiring the same

(*2*) The ferrules shall be of such character and material as the Corporation may fix and approve and except as provided in section 259 sub section (*2*) shall be affixed at the expense of the occupier of the premises

(*3*) The said service pipes and all fittings thereon for carrying water from the mains of the Corporation into any premises and all ferrules pipes taps works and fittings inside the premises must in all cases be executed subject to the inspection of the Chairman and to his satisfaction and the connection of premises with the mains of the Corporation and the laying of supply pipes under any public street or thoroughfare must be executed in the presence of a municipal officer authorized in that behalf and in no other way

(*4*) Such service pipes fittings ferrules pipes taps and works may be made by the servants and workmen of the Corporation upon such terms as may be agreed upon between the Chairman and the person requiring the supply or subject to such charges as may be fixed by the Chairman

and when they are to be so made the Chairman may require the cost to be paid or deposited before the work is executed

and such cost shall be recoverable in the manner provided by Chapter XVIII for the recovery of the consolidated rate

Power to enter premises

261 The Chairman may enter into or on any premises supplied with water under this Chapter in order to examine all

pipes, taps, works and fittings connected with the supply of water, and to ascertain whether there is any waste or misuse of such water

Replacing or alteration of fittings for supplying unfiltered water for the flushing of privies or urinals

262. If any pipes, taps, works or fittings connected with the supply of unfiltered water for the flushing of privies or urinals in any premises be found, on examination by the Chairman to be defective, he may, by written notice, require the owner of the premises—

(*a*) to replace such fittings, or

(*b*) to make such alterations therein as may be specified in the notice

Improvement of fittings before applying continuous system

263. When the continuous system of supplying filtered water is about to be applied to any premises, the Chairman may, if it is found that the pipes taps and fittings or any of them are defective, by written notice require the owner of the premises—

(*a*) to replace them, or

(*b*) to make such alterations therein as may be specified in the notice

Inspection of works etc before permitting connection with mains

264. (*1*) Before a connection for the supply of water from the mains of the Corporation to any premises is sanctioned by the Chairman, the Engineer shall cause all the works, pipes, taps and fittings within such premises to be inspected by a duly qualified officer

(*2*) The cost of such inspection shall be payable in advance, at such rates as the Corporation may from time to time direct, by the person applying for the said connection

(*3*) Until the Engineer has certified that the said works, pipes, taps and fittings have been executed and put up in a satisfactory manner, no connection with the mains of the Corporation shall be made

Owner to keep works in repair

265. Except in the case of a special agreement to the contrary, the owner of any premises shall bear the expense of keeping all works connected with the supply of water thereto in substantial repair, and, if he fails to do so, the occupier may, after giving the owner three days' notice in writing, himself have the repairs executed and deduct the expenses thereof from any rent which is due from him to the owner in respect of such premises

Provided that nothing in this section shall affect the liabilities of parties under leases executed or made before the first day of April, 1889

Prohibition of unlawfully flushing etc, water or damaging pipes, etc

266. No person shall unlawfully flush, draw off, divert or take water from any water-work belonging to, or under the management or control of, the Corporation, or shall by any wrongful act damage any such water-work or any pipe or

tap connected with it, or shall use any such water-work for any purpose other than the purpose for which it has been set apart

Regulation of consumption of water.

Blocks and block meters

267. (*1*) The Chairman shall divide Calcutta into such blocks as he may consider suitable in view to the gradual introduction of the continuous system of supplying filtered water and shall cause each such block to be provided with a water-meter

(*2*) Such meters shall be read at frequent intervals by a special establishment to be provided for the purpose under Chapter VI

Prohibition of waste of water

268. (*1*) No occupier of any premises to which water is supplied under this Chapter shall negligently or otherwise suffer such water to be wasted, or shall suffer the pipes taps, works and fittings for the supply of water, or any of them, to remain out of repair to such an extent as to cause a waste of water

(*2*) No person shall cause a waste of water by the misuse of public stand-posts, drinking-fountains or hydrants

Prevention of waste of filtered water under the continuous system

269. (*1*) Whenever the Chairman has reason to believe that filtered water supplied to any premises situated in a block in which the continuous system is in force is being wasted, he may by written notice require the owner and occupier of the premises, within a period of four days after service of the notice, to repair and make good any defects in the pipes, taps or fittings connected with the water-supply, so as to put a stop to such waste

(*2*) If any notice issued under sub section (*1*) is not complied with, and the Chairman has reason to believe that waste still continues, he shall cause to be served on the said owner and occupier a further notice informing them that if the first notice be not complied with within a further period of three days the supply of filtered water to the said premises will be cut off

(*3*) If, after the expiration of the said period of three days, the Chairman has reason to believe that waste still continues, he shall cut off the supply of filtered water to the said premises

Explanation—For the purposes of this section water shall not be deemed to be wasted if it is shown that it has been deliberately and purposely drawn for use for bona fide purposes from a tap provided for the purpose

Provision of house meters

270. (*1*) If the Chairman has reason to believe that the occupier of any premises consumes more filtered water than he is entitled to under section 218, the Chairman may provide a water-meter, and attach the same to the service-pipe of the said premises

(Part V—The Public Health, Safety and Convenience—Chapter XX—Water-supply—Secs 271-274)

(2) If the occupier of any premises situated in a block in which the continuous system of supplying filtered water is in force makes a written application to the Chairman to have a water-meter attached to the service-pipe of the premises, the Chairman shall, within fourteen days from the receipt of the application, provide a meter and attach it to the said pipe

(3) The expense of providing and attaching a meter under sub section (1) or sub section (2) shall be paid out of the Municipal Funds

(4) When a meter is to be attached under sub-section (2), on the application of the occupier of any premises, he shall either—

(a) before the meter is attached, deposit with the Corporation the sum required for providing and attaching the meter, or

(b) pay rent for the meter at such rate as may be fixed by the Chairman with the sanction of the Local Government

(5) When any sum is deposited under clause (a) by an occupier, it shall be returned to him when the meter is removed by the Chairman

271. When a meter has been attached to any premises, all filtered water which is shown thereby to have been supplied in excess of the quantity to which the occupier is entitled under section 248 shall be paid for by him at the rate of one rupee for every three thousand gallons. Payment for filtered water supplied in excess of statutory allowance

272. Any rent due under section 270, sub section (4), and any payment due under section 271, shall be recoverable in the manner provided by Chapter XVIII for the recovery of the consolidated rate. Recovery of dues

273. Whenever water is supplied under this Chapter through a meter, it shall be presumed that the quantity indicated by the meter has been consumed until the contrary is proved. Presumption as to correctness of meter

274. (1) If the owner or occupier of any premises to the service-pipe of which a meter is attached desires to have the meter tested, he may send a written application to the Chairman, and such application must be accompanied by a fee of five rupees. Testing of meter

(2) Upon receipt of any such application and fee, the Chairman shall forthwith cause such meter to be tested, at a time and place to be specified in a notice to be served upon such owner or occupier

(3) If such meter is found, upon being so tested, to be incorrect by more than two *per cent* the said fee shall be returned to the person who sent it

tap connected with it or shall use any such water-work for any purpose other than the purpose for which it has been set apart

Regulation of consumption of water

Blocks and block meters

267 (1) The Chairman shall divide Calcutta into such blocks as he may consider suitable in view to the gradual introduction of the continuous system of supplying filtered water and shall cause each such block to be provided with a water-meter

(2) Such meters shall be read at frequent intervals by a special establishment to be provided for the purpose under Chapter VI

Prohibition of waste of water

268. (1) No occupier of any premises to which water is supplied under this Chapter shall negligently or otherwise suffer such water to be wasted or shall suffer the pipes taps works and fittings for the supply of water, or any of them to remain out of repair to such an extent as to cause a waste of water

(2) No person shall cause a waste of water by the misuse of public [illegible] hydrants

Prevention of waste of filtered water under the continuous system

269 [illegible] has reason to believe that fil[illegible] supplied to any premises situated in a block in which the continuous system is in force is being wasted he may by written notice require the owner and occupier of the premises within a period of four days after service of the notice to repair and make good any defects in the pipes taps or fittings connected with the water supply, so as to put a stop to such waste

(2) If any notice issued under sub section (1) is not complied with and the Chairman has reason to believe that waste still continues he shall cause to be served on the said owner and occupier a further notice informing them that if the first notice be not complied with within a further period of three days the supply of filtered water to the said premises will be cut off

(3) If after the expiration of the said period of three days the Chairman has reason to believe that waste still continues he shall cut off the supply of filtered water to the said premises

Explanation—For the purposes of this section water shall not be deemed to be wasted if it is shown that it has been deliberately and purposely drawn for use for [illegible] purposes from a tap provided for the purpose

Provision of house meters

270 (1) If the Chairman has reason to believe that the occupier of any premises consumes more filtered water than he is entitled to under section 245 the Chairman may provide a water-meter and attach the same to the service-pipe of the said premises

(*2*) An appeal shall lie to the Local Government from any refusal by the Corporation to pass any such resolution, or from any direction given by the Corporation in any such resolution

(*3*) Before deciding any such appeal, the Local Government shall consider any representation made by the Corporation with reference thereto

(*4*) No order made on any such appeal shall direct the delivery of water at a lower rate of payment than the actual cost to the Corporation

(*5*) Every order made by the Local Government on any such appeal shall be final

Supply of water to persons residing out of Calcutta or for use outside Calcutta

279. (*1*) Subject to any rules from time to time made by the Corporation in this behalf, the Chairman may, in his discretion, allow any person not residing within Calcutta to take or be supplied with water on such terms as the General Committee may from time to time prescribe

(*2*) No person shall without the written permission of the Chairman take or cause to be taken for use outside Calcutta water supplied under this Chapter

Provided that this sub-section shall not apply to water taken by travellers for use on a journey

Power to extend this Chapter to environs of Calcutta

280. (*1*) If the Local Government determines that any area forming part of the environs of Calcutta shall be included in the water-supply provided for by this Chapter, it may, by notification in the Calcutta Gazette, extend this Chapter or any portion thereof together with any other portion of this Act which relates thereto to such area

(*2*) Any such notification must define the boundaries of such area, and shall take effect one month after the date of its publication in the Calcutta Gazette

(*3*) When any portion of this Act has been so extended to any area, all expenses and compensation which, under this Act, may be ascertained and determined by a Court of Small Causes may be ascertained and determined by any Court of Small Causes having jurisdiction within such area, and any fines imposed for breach of any provisions of this Chapter may be enforced, by a Magistrate having jurisdiction within such area, in the manner prescribed by the Code of Criminal Procedure, 1898[1], for the levy of fines

Miscellaneous provisions

General powers of the Corporation

281. The Corporation shall have the same powers and be subject to the same restrictions for carrying water-mains within or without Calcutta as they have and are subject to for carrying drains within or without Calcutta

[1] Printed in the General Acts 1898-03, Ed 1909, p 160

Arbitration in case of difference between owner and occupier

282. (*1*) If there is any difference between the owner and the occupier of any premises respecting the cost or the sufficiency of the water-supply thereof, either party may refer such difference to the General Committee, and the written award of the engineer, or of any officer authorized by the General Committee in that behalf, shall be binding on the owner and the occupier

(*2*) There shall be payable to the Corporation by the person making any such reference a fee at the rate of two rupees for every one hundred rupees of the monthly rent of the said premises

Provided that such fee shall in no case exceed ten rupees

Power to cut off or turn off supply of water to premises

283. (*1*) The Chairman may cut off the connection between any water-works of the Corporation and any premises to which water is supplied from such works, or may turn off such supply, in any of the following cases, namely —

(*a*) if the premises are unoccupied;

(*b*) if (in the case of a *bustee*) the owner or (in any other case) the occupier of the premises fails, for fifteen days after the due presentation of a bill or the due service of a notice, to pay any sum due to the Corporation from him or in respect of such premises,

(*c*) if, after receipt of a written notice from the Chairman requiring him to refrain from so doing, the owner or occupier of the premises continues to use the water, or to permit the same to be used, in contravention of this Act or any rule or by-law made hereunder;

(*d*) if the occupier of the premises contravenes section 245 or sub section (*2*) of section 279,

(*e*) if the occupier refuses to admit the Chairman into the premises for the purpose of making any examination or inquiry authorized by section 261, or prevents the Chairman from making such examination or inquiry,

(*f*) if the owner of the premises fails to comply with any notice issued under section 263;

(*g*) if the owner or occupier of the premises wilfully or negligently injures or damages his meter or any pipe or tap conveying water from any works of the Corporation; or

(*h*) if any pipes, taps, works or fittings connected with the supply of water to the premises be found, on examination by the Chairman, to be out of repair to such an extent as to cause a waste of water

(*Part V.—The Public Health, Safety and Convenience—Chapter XX.—Water-supply—Secs 284, 285*)

Provided as follows—

(*i*) water supplied for flushing privies or urinals shall not be cut off or turned off,

(*ii*) water shall not be cut off or turned off in any case referred to in clause (*b*) or clause (*h*) unless written notice of not less than twenty-four hours has been given to the occupier of the premises,

(*iii*) if, when the Chairman demands payment of any expenses under section 602, his right to demand the same, or the amount of the demand, is disputed, the power to cut off or turn off water to secure payment of such expenses shall not be exercised unless and until the demand or part thereof is upheld on a reference made to a Court under section 616

(*2*) The expense of cutting off the connection or of turning off the water in any case referred to in sub-section (*1*) shall be paid, in the case of a *bustee*, by the owner of the premises, and in any other case by the owner or occupier of the premises

(*3*) When all moneys, for the non payment of which water has been turned off or cut off from any premises under clause (*b*) of sub-section (*1*) have been duly paid to the Corporation, together with the expense of cutting off or turning off the water, the Chairman shall cause water to be supplied to such premises as before

(*4*) If any money, for the non payment of which water has been cut off or turned off from any premises under clause (*b*) of sub-section (*1*) was due from the owner of the premises and is paid by the occupier, the occupier may deduct the amount thereof from the rent of the premises, together with the expenses paid by him under sub-section (*2*)

(*5*) No action taken under or in pursuance of this section shall relieve any person from any penalties or liabilities which he may otherwise have incurred

284 Whenever a supply of filtered and unfiltered water has been provided in any street, the Chairman may, by written notice, require the owner of any well situated in premises which are supplied from the mains, to fill it up with suitable material. *Filling up of wells when water supplied*

285. When a plan for laying pipes or constructing aqueducts for bringing water into Calcutta from any place beyond Calcutta has been approved by the Local Government, the municipal authorities may, in the execution and for the purposes of the work, exercise, throughout the line of country through which such pipes or aqueducts are to run, all the powers which they might exercise under this Act or any rule *Laying of pipes or construction of aqueducts beyond Calcutta for bringing water into Calcutta*

or by-law made hereunder if the said pipes or aqueducts were to run in Calcutta,

and the Magistrate of any district through which the said pipes or aqueducts are to run may exercise in respect of the work the same powers and jurisdiction as a Magistrate may, under this Act, exercise in respect of any work executed by a municipal authority in Calcutta.

CHAPTER XXI

DRAINS, PRIVIES AND OTHER RECEPTACLES FOR FILTH.

Proprietary rights of the Corporation in respect of drains

Public drains and drains in, alongside or under public streets to vest in Corporation.

286. All public drains, and all drains in, alongside or under any public street whether made at the charge of Municipal Funds or otherwise and all works, materials and things appertaining thereto shall vest in the Corporation.

Drains etc constructed etc at charge of Municipal Funds on private premises to vest in Corporation.

287. All drains and ventilation-shafts, pipes and other appliances and fittings connected with drainage-works constructed, erected or set up at the charge of the Municipal Funds upon premises not belonging to the Corporation, whether before or after the commencement of this Act, and whether for the use of the owner or occupier of such premises or not shall, unless the Corporation has otherwise determined, or do at any time otherwise determine, vest and be deemed to have always vested in the Corporation.

Duties of the Corporation in respect of maintenance and construction of drains

Repair and provision of drains by Corporation.

288. The Corporation shall keep all municipal drains in repair, and shall cause to be made such drains as may be necessary for effectually draining Calcutta.

Outfall for discharge of storm water and sewage.

289. (*1*) The Corporation shall provide a safe and sufficient outfall, within or without Calcutta, for the proper discharge of the storm water and sewage of Calcutta, in such manner as not to cause any nuisance, whether by flooding any part of Calcutta or of the country surrounding the outfall or in any other way.

(*2*) The plans of the outfall and the method of disposing of sewage shall be subject to the sanction of the Local Government which may from time to time direct such alterations to be made as it may consider necessary.

of 1899.]

(Part V.—The Public Health, Safety and Convenience—Chapter XXI.—Drains, Privies and other Receptacles for Filth—Secs. 290, 291)

(3) If the outfall deteriorates, by the decay of existing river channels or otherwise, the Local Government may require such order to be taken, and such additions or alterations to be made to or in the outfall works, at the charge of Municipal Funds, as it may consider necessary to ensure the proper discharge of storm water and sewage in such manner as not to cause any nuisance as aforesaid

Municipal drains

Power to carry municipal drains through street, etc, and power to enter on private land for construction or alteration of municipal drain

290. (1) With the consent of the General Committee, the Chairman may carry any municipal drain through, across or under any street or any place laid out as or intended for a street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within Calcutta or, for the purpose of outfall or distribution of sewage, without Calcutta

(2) With the like consent, the Chairman may construct any new drain in the place of an existing drain in any land wherein any municipal drain has been already lawfully constructed, or may repair or alter any municipal drain so constructed, and may for those purposes enter upon such land.

(3) In the exercise of any power conferred by this section as little damage as may be shall be done, and the Chairman shall, with the sanction of the General Committee, pay compensation to any person who sustains damage by the exercise of such power

Power to improve or discontinue municipal drains

291. The Chairman may—

(1) enlarge, arch over or otherwise improve any municipal drain, and

(2) with the consent of the General Committee discontinue, close up or destroy any municipal drain which has in his opinion become useless or unnecessary

Provided as follows —

(a) the discontinuance, closing up or destruction of any municipal drain shall be so done as to create the least practicable nuisance or inconvenience to any person,

(b) if, in the exercise of any of the powers conferred by this section, it is proposed to demolish any house-drain, a written notice shall be served upon the owner of such drain,

(c) if, by reason of anything done under this section, any person is deprived of the lawful use of any drain, the Chairman shall, as soon as may be, provide for

his use some other drain as effectual as the one which has been discontinued, closed up or destroyed.

Railways, streets, etc., not to be constructed over municipal drain without permission.

292. (1) Without the written permission of the General Committee no railway or private street shall be constructed, and without the written permission of the Chairman no wall or other structure shall be newly erected, over any municipal drain.

(2) If any railway or private street be constructed, or if any wall or other structure be erected, without the permission required by sub-section (1), the Chairman may, with the approval of the General Committee, remove or otherwise deal with the same as he may think fit, and the expenses thereby incurred shall be paid by the person offending.

Communication of drain under control of Local Authority beyond Calcutta with municipal drain.

293. (1) Any Local Authority without Calcutta may cause any drain under its control to communicate with any municipal drain on such terms and conditions as may be agreed on between such Local Authority and the General Committee and sanctioned by the Corporation.

(2) If in any case terms and conditions cannot be agreed upon or are not sanctioned under sub-section (1), the said Local Authority shall refer the matter to the Local Government, whose decision shall be final.

Communication of municipal drains with drains, lakes, etc., beyond Calcutta.

294. When a plan for making drains to communicate with, or empty themselves into any public drain, lake, stream, canal or water-course beyond Calcutta has been approved by the Local Government, the municipal authorities may, in the execution and for the purposes of the work, exercise, throughout the line of country through which the said drains are to run, all the powers which they might exercise under this Act if the said drains were to run entirely in Calcutta,

and the Magistrate of any district through which the said drains are to run may exercise, in respect of the work, the same powers and jurisdiction as a Magistrate may under this Act exercise in respect of any work executed by a municipal authority entirely in Calcutta.

Drainage of Premises

Right of owner or occupier of premises to empty his house-drain into municipal drain.

295. The owner or occupier of any premises shall be entitled to cause his house-drain to empty into a municipal drain, provided that he first obtains the written permission of the Chairman, and that he complies with such conditions as the Chairman prescribes as to the mode in which and the drains superintendence under which communications between house- and municipal drains are to be made.

of 1899.]

(Part V—The Public Health, Safety and Convenience.—Chapter XXI.—Drains, Privies and other Receptacles for Filth—Secs 296-299.)

296. (*1*) No person shall, without complying with the provisions of section 295, make, or cause to be made, any connection of a house drain with a municipal drain

Connections with municipal drains not to be made except in conformity with section 295

(*2*) The Chairman may with the approval of the General Committee, close, demolish, alter or re make any such connection made in contravention of sub-section (*1*) and the expenses incurred by the Chairman in so doing shall be paid by the owner or occupier of the premises for the benefit of which the connection was made, or by the person offending

297. Where a house-drain belonging to one or more persons has been laid in any private street or passage which is common to more than one building and the Chairman considers it desirable that any other premises should be drained into such drain, he may, by written notice require the owner of such premises to connect his house-drain with such first-mentioned drain, and the owners of such first-mentioned drain shall thereupon be bound to permit such connection to be made

Compulsory connection of house drains with each other

Provided that no such connection shall be made except upon such terms as may be prescribed by the Corporation and until any payment which may be directed by the Corporation has been duly made

298. (*1*) If it appears to the Chairman that any group or block of buildings may be drained more economically or advantageously in combination than separately, and a sewer of sufficient size already exists or is about to be constructed, within one hundred feet of any part of such group or block of buildings, the Chairman may, with the approval of the General Committee, cause such group or block of buildings to be *drained by a combined operation*,

Draining of group or block of buildings by a combined operation

and the expenses thereby incurred shall be paid by the owners of such buildings or in the case of *buste* land, by owners of the land, in such proportions as the General Committee may think fit

(*2*) Not less than fifteen days before any work under this section is commenced, the Chairman shall give written notice, to the owners of all the land or buildings to be drained, of the nature of the proposed work, and an estimate of the expenses about to be incurred in respect thereof and the proportion payable by each owner

299. Where any premises are in the opinion of the Chairman, without sufficient means of effectual drainage and a municipal drain or some place lawfully set apart for the discharge of drainage is situated at a distance not exceeding one hundred feet from some part of the said premises, the Chairman may, with the approval of the General Committee,

Power of Chairman to enforce drainage of undrained premises situate within 100 feet of a municipal drain

by written notice require the owner or occupier of the said premises—

(a) to make a house drain emptying into such municipal drain or place aforesaid

(b) to provide and set up all such appliances and fittings as may appear to the Chairman necessary for the purposes of gathering and receiving the drainage from and conveying the same off the said premises and of effectually flushing such house drain and every fixture connected therewith or

(c) to remove any existing house-drain or other appliance or thing used or intended to be used for drainage which is injurious to health

Power of Chairman to enforce drainage of undrained premises in other cases

300 Where in any case not provided for in section 299 any premises are in the opinion of the Chairman without sufficient means of effectual drainage he may with the approval of the General Committee by written notice require the owner or occupier of the said premises to make a house drain communicating with the nearest municipal drain

Provided as follows—

(a) the cost of constructing the portion of the house drain so made which is situate more than one hundred feet from the said premises shall be paid out of the Municipal Funds

(b) if in the opinion of the Chairman there is no municipal drain within a reasonable distance of the said premises he may with the approval of the General Committee by written notice require the owner of the premises to construct—

(i) a house drain or house-drains and

(ii) a closed cesspool of such material size and description and in such position as he may prescribe

Power of Chairman to close or limit the use of house drain

301. (1) Where a house drain connecting any premises with a municipal drain is sufficient for the effectual drainage of the said premises and is otherwise unobjectionable but is not in the opinion of the Chairman adapted to the general drainage system of Calcutta the Chairman with the approval of the General Committee—

(a) may subject to the provisions of sub section (2) by written notice direct that such house-drain be closed discontinued or destroyed and may cause any work necessary for that purpose to be done or

(*b*) may, by written notice, direct that such house-drain shall, from such date as he prescribes in this behalf, be used for sewage, offensive matter and polluted water only or for rain-water and unpolluted sub-soil water only, and require the owner or occupier of the premises to make a new and entirely distinct house-drain for rain-water and unpolluted sub-soil water or for sewage, offensive matter and polluted water, as the case may be.

(*2*) No house-drain may be closed, discontinued or destroyed by the Chairman under clause (*a*), except on condition of his providing another house-drain as effectual for the drainage of the premises and communicating with any municipal drain which the Chairman thinks fit and the expenses of the construction of any drain so provided by the Chairman and of any work done under clause (*a*) shall be paid out of the Municipal Funds.

(*3*) Any requisition made by the Chairman under clause (*b*) may embrace any detail specified in clause (*b*) of section 299.

Power of Chairman to require that sewage and rain water drains be distinct

302. Whenever it is provided in this Chapter that steps shall or may be taken for the effectual drainage of any premises, the Chairman may by written notice require that there shall be one house-drain for sewage offensive matter and polluted water, and another and entirely distinct house-drain for rain-water or unpolluted sub-soil water, or for both rain-water and unpolluted sub-soil water, each emptying into separate municipal drains or other suitable places.

Restrictions on construction of drain beneath building

303. Except with the written permission of the Chairman, and in conformity with such conditions as may be prescribed by the General Committee, either generally or specially in this behalf no drain shall be so constructed as to pass beneath any part of a building.

Prohibition of construction of cesspool beneath certain buildings

304. No person shall construct a cesspool beneath any part of a building which is used or intended to be used for human habitation or in which any person is, or is intended to be, employed in any manufacture, trade or business.

Maintenance of house-drains kept up for the benefit of certain premises only

305. (*1*) Every house-drain which is situated in, alongside or under any street and which has been or shall be constructed, whether at the charge of the Municipal Funds or not, for the sole use and benefit of, or which is continued for the sole use and benefit of, any premises adjoining or near to such street, shall be maintained and from time to time repaired, flushed, cleansed and emptied by the owner or occupier of the said premises.

(Part V—The Public Health, Safety and Convenience.—Chapter XXI—Drains, Privies and other Receptacles for Filth.—Secs. 306-309.)

(2) The Chairman may,—

(a) by written notice, require the owner or occupier of the said premises to repair, flush, cleanse or empty any such house-drain, or

(b) with the approval of the General Committee, by written notice require such owner or occupier to take such other order with such house-drain as the Chairman may deem necessary.

Paving, etc., of court yard, etc., between buildings.

306. (1) For the purpose of efficiently draining any building or land the Chairman may, by written notice,—

(a) require any courtyard, alley or passage between two or more buildings to be paved with such materials and in such manner as may be approved of by him, and

(b) require such paving to be kept in proper repair.

(2) The Chairman may also, by written notice, require the level of any such courtyard, alley or passage to be raised, if he considers it necessary that that should be done in order to secure efficient drainage.

Surface drains for huts.

307. (1) The General Committee may prescribe such surface drains for the drainage of huts as the circumstances of the locality and the position of the nearest sewer may render practicable.

(2) If the General Committee consider that a new surface drain should be constructed for the benefit of occupants of any hut, they may, by written notice, require the owner of the land on which the hut stands to construct such drain.

(3) When any drain has been constructed by the Chairman in default of compliance with a notice issued under sub-section (2), and is subsequently repaired at the expense of the Municipal Funds, the owner of the hut aforesaid shall be bound to pay the cost of such repair.

Rules as to drains.

308. Drains must be constructed, laid, maintained and regulated in accordance with the rules contained in Schedule XV.

Privies and urinals.

Provision and maintenance of public privies and urinals by General Committee.

309. The General Committee shall provide and maintain, in proper and convenient situations, privies and urinals for the use of the public, and shall cause all privies and urinals so provided to be constructed and kept so as not to be a nuisance or injurious to health.

(2) The Chairman may,—

(*a*) by written notice, require the owner or occupier of the said premises to repair, flush, cleanse or empty any such house drain, or

(*b*) with the approval of the General Committee, by written notice require such owner or occupier to take such other order with such house-drain as the Chairman may deem necessary.

Paving etc of courtyard etc between buildings.

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Rules for construction etc of privies and urinals

314. Privies and urinals, and appurtenances thereof, must be constructed maintained and regulated in accordance with—

(*a*) the rules contained in Schedule XVI, and

(*b*) requisitions made under such rules

Recovery by occupier from owner of expenses of making structural alterations in privy or urinal

315. When the occupier of any building or land pays the expenses of making any structural alterations in a privy or urinal in pursuance of any notice issued under this Chapter or Schedule XVI, he may deduct the amount thereof from any rent due or thereafter accruing due to the owner of the building or land

Expenses payable out of Municipal Funds in certain cases

316. (*1*) If, within three years after any privy has been provided or altered with the sanction or on the requisition of any municipal authority, a requisition is made by any municipal authority for the re-building or alteration of such privy, the expenses of such re-building or alteration shall be paid out of the Municipal Funds

(*2*) When any notice has been issued under Schedule XVI in respect of any privy, urinal or group of privies or urinals erected before the commencement of this Act, and the General Committee are satisfied that the owner of the building or land in or on which any such privy or urinal is situated is from poverty unable to pay the expenses or the entire expenses of carrying out the work required by the notice, the General Committee may direct that such expenses or such portion thereof as they think fit be paid out of the Municipal Funds.

Inspection of drains, house-gullies, privies and urinals

House drains etc not belonging to the Corporation to be subject to inspection and examination

317. All house-drains ventilation-shafts, and pipes, cesspools, house *gullies,* privies and urinals which do not belong to the Corporation, or which have been constructed, erected or set up at the charge of the Municipal Funds on premises not belonging to the Corporation for the use or benefit of the owner or occupier of the said premises, shall be open to inspection and examination by the Chairman

Power to open ground etc for purposes of such inspection and examination

318. For the purpose of such inspection and examination, the Chairman may cause the ground or any portion of any house-drain or other work exterior to a building, or, with the approval of the General Committee, any portion of a building which he may think fit, to be opened broken up or removed

Provided that in the prosecution of any such inspection and examination as little damage as may be shall be done

Expenses of inspection and examination by whom to be paid

319. (*1*) If, upon any such inspection and examination as aforesaid, it is found that the house-drain, ventilation-shaft or pipe, cesspool, house-*gully*, privy or urinal examined is in proper order and condition, and that none of the provisions of

this Chapter or Schedule XV or Schedule XVI have been contravened in respect of the construction or maintenance thereof, and that no encroachment has been made thereupon, the ground or the portion of any building, house-drain or other work, if any, opened, broken up or removed for the purpose of such inspection and examination shall be filled in, re-instated and made good by the Chairman.

(2) But if it is found that any house-drain, ventilation-shaft or pipe, cesspool, house-*gully*, privy or urinal so examined is not in good order or condition, or has been repaired, changed, altered, encroached upon or (except when the same has been constructed by or under the order of a municipal authority) constructed in contravention of any of the provisions of this Chapter or Schedule XV or Schedule XVI or of any enactment at the time in force,

the expenses of the inspection and examination shall be paid by the owner of the premises, and the said owner shall at his own cost fill in, re-instate and make good the ground, or the portion of any building, house-drain or other work, opened, broken up or removed for the purpose of such inspection and examination

Provided that the amount recoverable as expenses of such inspection and examination shall not in any case exceed ten rupees

320. (*1*) When the result of the inspection and examination is as described in section 319, sub-section (2 the Chairman may, by written notice, require the owner of the premises in which the house-drain, ventilation shaft or pipe, cesspool, house-*gully*, privy or urinal is situate— Power of Chairman to require repairs etc, to be made

(*a*) to close or remove the same or any encroachment thereupon or

(*b*) to renew repair, cover, re cover, trap, ventilate, pave and pitch, flush, cleanse or take such other order with the same as the Chairman may think fit to direct, and to fill in, re-instate and make good the ground or the portion of any building, house drain or other work opened, broken up or removed for the purpose of the inspection and examination aforesaid

(2) In any such case as aforesaid the Chairman may, forthwith and without notice, stop up or demolish any house-drain by which sewage, offensive matter or polluted water is carried through, from, into or upon any premises in contravention of any of the provisions of this Chapter or Schedule XV or Schedule XVI; and all expenses incurred by the

(Part V—The Public Health Safety and Convenience—Chapter XXI—Drains Privies and other Receptacles for Filth—Secs 314 317)

Rules for construction etc of privies and urinals

314. Privies and urinals and appurtenances thereof must be constructed maintained and regulated in accordance with—

(*a*) the rules contained in Schedule XVI and

(*b*) requisitions made under such rules

Recovery by occupier from owner of expenses of making structural alterations in privy or urinal

315 When the occupier of any building or land pays the expenses of making any structural alterations in a privy or urinal in pursuance of any notice issued under this Chapter or Schedule XVI he may deduct the amount thereof from any rent due or thereafter accruing due to the owner of the building or land

Expenses payable out of Municipal Funds in certain cases

316 (*1*) If within three years after any privy has been provided or altered with the sanction or on the requisition of any municipal authority a requisition is made by any municipal authority for the re-building or alteration of such privy the expenses of such re building or alteration shall be paid out of the Municipal Funds

(*2*) When any notice has been issued under Schedule XVI in respect of any privy urinal or group of privies or urinals erected before the commencement of this Act and the General Committee are satisfied that the owner of the building or land in or on which any such privy or urinal is situated is from poverty unable to pay the expenses or the entire expenses of carrying out the work required by the notice the General Committee may direct that such expenses or such portion thereof as they think fit be paid out of the Municipal Funds

Inspection of drains house gullies privies and urinals

House drains etc not belonging to the Corporation to be subject to inspection and examination

317. All house-drains ventilation shafts and pipes cesspools house *gullies* privies and urinals which do not belong to the Corporation or which have been constructed erected or set up at the charge of the Municipal Funds on premises not belonging to the Corporation for the use or benefit of the owner or occupier of the said premises shall be open to inspection and examination by the Chairman

Power to open ground etc for purposes of such inspection and examination

318 For the purpose of such inspection and examination the Chairman may cause the ground or any portion of any house drain or other work exterior to a building or with the approval of the General Committee any portion of a building which he may think fit to be opened broken up or removed

Provided that in the prosecution of any such inspection and examination as little damage as may be shall be done

Expense of inspection and examination by whom to be paid

319 (*1*) If upon any such inspection and examination as aforesaid it is found that the house drain ventilation shaft or pipe cesspool house *gully* privy or urinal examined is in proper order and condition and that none of the provisions of

of 1899.]

(Part V—The Public Health, Safety and Convenience—Chapter XXI—Drains, Privies and other Receptacles for Filth—Secs 325, 326)

Filth receptacles near tank or reservoir.

Filth receptacles within fifty feet of tank water course or reservoir

325. (*1*) No person shall construct any house drain, cesspool, service-privy, urinal or other receptacle for sewage or offensive matter within fifty feet of any tank or water course or any reservoir for the storage of water, unless he first satisfies the Engineer that he will take such order as will prevent any risk of sewage or offensive matter passing by percolation or otherwise into such tank, water-course or reservoir

(*2*) The General Committee may at any time, by written notice, require any person, upon whose land there is situated within fifty feet of any tank or water-course or any such reservoir, any receptacle mentioned or referred to in sub section (*1*), to remove such receptacle

General Prohibitions

Prohibition of certain acts

326. No person shall,—

(*a*) in contravention of any of the provisions of this Chpater or Schedule XV or Schedule XVI, or of any notice issued or direction given thereunder, or without the written permission of the Chairman,

in any way alter the fixing, disposition or position of or construct, erect set up, renew, re-build, remove obstruct, stop up, destroy or change,

any drain, ventilation-shaft or pipe cesspool, privy or urinal, or any trap, covering or other fitting or appliance connected therewith,

(*b*) without the written permission of the Chairman, renew, re build or unstop any drain, ventilation-shaft or pipe, cesspool privy or urinal or any fitting or appliance which has been, or has been ordered to be discontinued, demolished or stopped up under any of the provisions of this Chapter,

(*c*) without the written permission of the Chairman, make any encroachment upon, or in any way injure or cause or permit to be injured, any drain, cesspool, house gully, privy or urinal,

(*d*) drop, pass or place or cause or permit to be dropped, passed or placed, into or in any drain, any brick, stone, earth or ashes, or any substance or matter, by which or by reason of the amount of which such drain is likely to be obstructed,

Chairman in so doing shall be paid by the owner of the premises.

General powers and duties of the Chairman.

Affixing of shafts or pipes for ventilation of drain or cesspool.

321. For the purpose of ventilating any drain or cesspool, whether vested in the Corporation or not, the Chairman, with the sanction of the General Committee, may erect upon any premises or affix to the outside of any building, or to any tree, any such shaft or pipe as may appear to him to be necessary.

Supervision and revision of work of laying underground drain.

322. (*1*) When any underground drain is being laid, the Chairman may cause the work to be supervised and from time to time direct the making of any reasonable alteration or addition therein or thereto, or the abandonment of any part thereof, if such alteration, addition or abandonment appears to him to be necessary for ensuring the complete and satisfactory execution of the work.

(*2*) Every such direction shall, when given to any person other than a municipal officer or servant, be given by written notice.

Power of Chairman to himself cause work to be done when municipal drains etc. affected.

323. When a notice has been issued under this Chapter or Schedule XV, requiring any person to construct or alter a drain, the Chairman may himself cause to be constructed or altered so much of the drain as is to run or runs through or under any municipal drain, public aqueduct or public street, and the expenses thereby incurred shall be paid by the owner of the drain.

Provision of drains etc. on execution of works.

324. (*1*) In executing any drainage-works under this Chapter, the Chairman, with the approval of the General Committee, shall provide and make, out of the Municipal Funds, a sufficient number of convenient ways, water-courses and drains in substitution for any that may be interrupted, injured or rendered useless by reason of the execution of such works; and, if any difference arises between the Chairman and the persons affected, the same shall be settled by the Court of Small Causes having jurisdiction in the place where such works are executed, on application to be made to it for this purpose.

(*2*) The decision of the Court of Small Causes shall, subject to the provisions of section 6[1] of the Presidency Small Cause Courts Act, 1882, or section 25[2] of the Provincial Small Cause Courts Act, 1887, as the case may be, be final.

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[1] Printed in the General Acts 1879-86, Ed. 1909, p. 404.
[2] Printed in the General Acts 1887-97, Ed. 1909, p. 117.

Filth receptacles near tank or reservoir.

325. (*1*) No person shall construct any house drain, cesspool, service-privy, urinal or other receptacle for sewage or offensive matter within fifty feet of any tank or water course or any reservoir for the storage of water, unless he first satisfies the Engineer that he will take such order as will prevent any risk of sewage or offensive matter passing by percolation or otherwise into such tank, water course or reservoir. Filth receptacles within fifty feet of tank, water course or reservoir

(2) The General Committee may at any time, by written notice, require any person, upon whose land there is situated within fifty feet of any tank or water-course or any such reservoir, any receptacle mentioned or referred to in sub section (*1*), to remove such receptacle

General Prohibitions

326. No person shall,— Prohibition of certain acts

(*a*) in contravention of any of the provisions of this Chpater or Schedule XV or Schedule XVI, or of any notice issued or direction given thereunder, or without the written permission of the Chairman,

in any way alter the fixing, disposition or position of or construct, erect set up, renew, re-build, remove, obstruct, stop up, destroy or change,

any drain, ventilation-shaft or pipe, cesspool, privy or, urinal, or any trap, covering or other fitting or, appliance connected therewith,

(*b*) without the written permission of the Chairman, renew, re build or unstop any drain, ventilation-shaft or pipe, cesspool, privy or urinal, or any fitting or appliance, which has been, or has been ordered to be discontinued, demolished or stopped up under any of the provisions of this Chapter,

(*c*) without the written permission of the Chairman, make any encroachment upon, or in any way injure or cause or permit to be injured, any drain, cesspool, house-gully, privy or urinal,

(*d*) drop, pass or place or cause or permit to be dropped, passed or placed, into or in any drain, any brick, stone, earth or ashes, or any substance or matter, by which or by reason of the amount of which such drain is likely to be obstructed,

(*e*) pass or permit or cause to be passed into any drain provided for a particular purpose, any matter or liquid for the conveyance of which such drain was not provided; or

(*f*) cause or suffer to be discharged into any drain from any factory, bakehouse, distillery, workshop or work-place, or from any building or place in which steam, water or mechanical power is employed, any hot water, steam or fumes, or any liquid which would prejudicially affect the drain or the disposal by sale or otherwise of the sewage conveyed along the drain, or which would from its temperature or otherwise, be likely to create a nuisance.

Appeal.

Appeal to the General Committee

327. (*1*) An appeal shall lie to the General Committee from—

(*a*) any notice issued or other action taken or proposed to be taken by the Chairman—

(*i*) under section 291, proviso (*b*) or proviso (*c*), section 295, section 297, section 298, sub-section (*2*), section 301, sub-section (*2*), section 302, section 305, clause (*a*), section 306, section 312, section 313, section 320, or section 322, or

(*ii*) under any by-law made under section 559, clause (*9*), clause (*10*), clause (*11*), or clause (*12*), or

(*iii*) under rule 2 or clause (*a*) of rule 6 in Schedule XVI, or

(*b*) any refusal by the Chairman to make a declaration under proviso (*a*) to section 311, or to grant a written permission under section 292, sub-section (*1*), section 295, section 303 or section 326.

(*2*) The decision of the General Committee on any such appeal shall be final.

General powers of the General Committee.

General powers of the General Committee in respect of house-drains, cesspools, privies and urinals.

328. (*1*) Subject to the foregoing provisions of this Chapter and to the provisions of Schedule XV and Schedule XVI,—

(*a*) all house-drains, as well within as without the building or land to which they belong, all cesspools and all privies and urinals shall be under the survey and control of the General Committee as regards their

(Part V—The Public Health Safety and Convenience—Chapter XXI—Drains Privies and other Receptacles for Filth—Chapter XXII—Licensed Plumbers—Secs 329 330)

site construction materials and dimensions and the arrangements for flushing the same and

(*b*) the General Committee may by written notice require that any house drain cesspool privy or urinal be altered paved repaired trapped ventilated or kept in such a state of repair as to admit of its being sufficiently cleaned or be supplied with water or be connected with a sewer or be stopped up or demolished

(*2*) Every such notice shall be addressed—

(*i*) if the building or land to which the house drain cesspool privy or urinal belongs or for the use of the occupants of which the same was constructed or is continued is situate in a *bustee*—to the owner of the land and

(*ii*) in other cases—to the occupier of the building or land

(*3*) The expense of executing any work in pursuance of any such notice shall be paid by the person to whom the notice was addressed

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CHAPTER XXII

Licensed Plumbers

329 (*1*) The Chairman shall within two months from the publication of by laws made under section 559 clauses (*9*) to (*12*) and may thereafter from time to time grant to any persons he thinks fit licenses to act as plumbers for the purposes of Chapter XX or Chapter XXI Licensing of plumbers

(*2*) Each such license shall be for a renewable period of three years

(*3* If the Chairman refuses any application for a license under this section he shall at the request of the applicant furnish him with his reasons for such refusal in writing under his signature without charge

330 The Chairman may make regulations[1] for the guidance of licensed plumbers and a copy of all such regulations for the time being in force shall be written on the back of every license granted under section 329 Regulations for guidance of plumbers

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[1] For a reference to regulations made under section 330 see the Bengal Local Statutory Rules and Orders 191[illegible] Vol I Pt VI

Powers and duties of plumber licensed for drainage works

331. A plumber holding a license for the purposes of Chapter XXI—

(a) may prepare for the approval of the Engineer plans and estimates for the drainage of premises,

(b) with the sanction of the Engineer, may carry out drainage works in accordance with this Act and the rules by-laws, and regulations made hereunder;

(c) shall furnish the Engineer with plans of all drainage works carried out under clause (b);

(d) may carry out any necessary repairs to municipal drainage works,

(e) when the owner or occupier of any premises has failed to comply with a notice requiring him to provide for the effectual drainage of such premises, may, if so directed by an order signed by the Chairman, carry out such works as may be necessary for the efficient drainage of the said premises; and

(f) when any works have been executed under clause (e), shall furnish the Engineer with plans of the same, and with a statement of the cost of such works.

Prohibition of work by other than licensed plumber

332. (1) No person other than a licensed plumber—

(a) shall execute any work in connection with the laying on of water from any mains of the Corporation to any building or land, or in connection with the extension of such mains or the supply of additional fittings after water has been so laid on, or

(b) shall make any underground drain in connection with the public sewers

(2) No owner or occupier of a building or land shall cause or allow any work referred to in clause (a) of sub-section (1) to be executed by any person other than a licensed plumber

(3) If any owner or occupier of a building or land contravenes sub section (2), the Chairman may, whether a prosecution be instituted or not, cut off the connection until the said work has been re-executed to his satisfaction

Remuneration of licensed plumbers

333. (1) The General Committee may from time to time prescribe the charges to be paid to licensed plumbers for any work done by them under or for any of the purposes of Chapter XX

(2) A licensed plumber may, for any work done by him under or for any of the purposes of Chapter XXI, receive remuneration as follows, namely —

(a) for carrying out drainage works under clause (b) of section 331, such sum as may be prescribed in a scale of charges sanctioned by the General Committee.

(Part V—The Public Health, Safety and Convenience—Chapter XXII—Licensed Plumbers—Chapter XXIII—Streets and Public Places—Secs 334-337.)

(*b*) in other cases, such sum as may be prescribed in a schedule of rates prepared by the General Committee

(*3*) No licensed plumber shall, for any work referred to in sub-section (*1*) or sub-section (*2*), demand or receive more than the charge prescribed therefor under such sub-section

334. The Chairman shall provide for— Control over licensed plumbers and their work and charges

(*a*) the exercise of an adequate control over all licensed plumbers,

(*b*) the inspection of all work carried out by them, and

(*c*) the hearing and disposal of complaints made by owners or occupiers of premises with regard to the quality of the work done by, the materials used by, or the charges made by, licensed plumbers

335. (*1*) No licensed plumber shall infringe any of the regulations made under section 330 or execute carelessly or negligently any work under this Act or any rules, by-laws or regulations made hereunder, or make use of bad materials, appliances or fittings Prohibitions and cancellation of license

(*2*) If any licensed plumber contravenes sub-section (*1*) his license may be cancelled, whether he be prosecuted or not

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CHAPTER XXIII

STREETS AND PUBLIC PLACES

Proprietary rights of the Corporation

336. All public streets and squares (not being the property and kept under the control of the Government of the Commissioners for the Port of Calcutta)[1] including the soil, and the side drains footways pavements stones and other materials of such streets and squares and all erections, materials implements and other things provided for such streets or squares, shall vest in and belong to the Corporation Public streets and squares vested in the Corporation

Maintenance, repair and protection of streets and public places

[2]**337.** The General Committee shall, out of funds to be allotted by the Corporation, cause the public streets to be Maintenance and repair of public streets

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[1] ... Port Commissioners to the Corporation see ... of this Code For ... see ... 57 (...) ...

[2] ... cases by the Calcutta Improvement Act

maintained and repaired and for those purposes may do all things necessary for the public safety or convenience including the construction and maintenance of bridges causeways and culverts

Watering of public streets and squares

[1] **338** (*1*) The Chairman shall so far as he may consider it necessary so to do for the public convenience cause the chief public streets and squares to be watered and for that purpose may provide such water-carts animals and apparatus as he may think necessary

(*2*) If any question arises as to whether any particular public street or square should be watered instead of or in addition to others the matter shall be referred to the General Committee whose decision shall be final

Cutting of hedges and trees

339 (*1*) The Chairman shall cause any hedges belonging to the Corporation which border on any street or square to be trimmed or pruned to a height not exceeding seven feet and any trees belonging to the Corporation which overhang any public street and obstruct the same or cause damage thereto to be cut and trimmed

(*2*) The Chairman may by written notice require the owner or occupier of any building or land to trim or prune to a height not exceeding seven feet any hedges thereof bordering on any public street or to cut and trim trees overhanging any public street and obstructing the same or causing damage thereto

(*3*) The Chairman if for the public safety it appears to him necessary so to do may cause any hedge or tree referred to in sub section (*2*) to be trimmed pruned or cut without previously giving notice to the owner or occupier of the building or land as required by that sub section and the expenses thereof shall nevertheless be paid by the owner or occupier

Regulation of verandahs etc projecting over streets

340 (*1*) No verandah supported by pillars resting on a street shall be erected or re erected—

(*a*) in any street specified by the General Committee in this behalf

(*b*) in any street the width of which is less than fifty feet or

(*c*) over any footpath the width of which is less than six feet

(*2*) No roof shall be placed on any verandah supported as aforesaid and no roof exceeding three feet in width shall be placed on any verandah projecting over a street and not supported as aforesaid

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[1] The application of s 338 is barred in certain cases by the Calcutta Improvement Act 1911 (Ben Act 5 of 1911) s 57 (*1*) *post* p [illegible]

(3) No person shall put up any verandah, balcony, sunshade, weather-frame or the like, to project over any street, without the written permission of the General Committee.

(4) Subject to the provisions of sub-sections (1) and (2), the General Committee may, at their discretion, give written permission, on such conditions as they may think fit with reference to payment of fees or rent or any other matter, to owners or occupiers of buildings abutting on any street, to put up verandahs balconies, sunshades, weather-frames and the like, whether supported by pillars or not, to project over such street.

(5) On the breach of any such condition, the Committee may by written notice require the owner or occupier to comply with such condition

(6) At any time after permission has been given under sub-section (4) to put up a verandah, balcony, sunshade, weather-frame or the like, to project from a building, the General Committee may, by written notice, require the owner or occupier of the building to remove such projection, and the owner or occupier shall be entitled to reasonable compensation out of the Municipal Funds on account of such removal

341. (1) When any fixture has, whether before or after the commencement of this Act, been attached to a building so as to form part of the building, and the same causes a projection, encroachment or obstruction over or on any public street or any land vested in the Corporation, the General Committee may, by written notice, require the owner or occupier of the building to remove or alter such fixture

Removal or alteration of fixtures attached to building so as to project, etc over public street or land

(2) If the expense of removing or altering any such fixture is paid by the occupier of the building, in any case in which the fixture was not erected by himself, he shall be entitled to deduct the expense of removal or alteration from the rent payable by him to the owner of the building

(3) If the owner or occupier of the building proves that any such fixture was erected before the first day of June one thousand eight hundred and sixty-three or that it was erected on or after that day with the consent of any municipal authority duly empowered in that behalf, the Corporation shall make reasonable compensation to every person who suffers damage by the removal or alteration of the fixture

342. (1) The Chairman may remove any wall, fence, rail, post, platform or other obstruction, projection or encroachment, (not being a fixture referred to in section 341) which has been erected or set up, and any materials or goods which have been deposited, in a public street or in or over any drain or aqueduct in a public street, whether the offender be prosecuted or not

Removal of other obstructions in public street

(2) When the Chairman removes any wall or other obstruction, projection or encroachment from land which forms part of a public street, no compensation shall be payable, but the General Committee shall be bound to provide proper means of access to and from the street if none exist already.

Repair, protection or enclosure of dangerous building, tank, etc., near street.

343. If any building, tank, well, hole or other place near a street be, for want of sufficient repair, protection or enclosure, dangerous to passengers or to persons living in the neighbourhood, the Chairman may, by written notice, require the owner of the land to repair, protect or enclose such building, tank, well, hole or place.

Sky-signs.

344. (*1*) No persons shall erect or maintain a sky-sign without the written permission of the Chairman stating that the sign is not so constructed or maintained as to be dangerous to the public and is not likely to fall into any street or public place.

(*2*) Every written permission granted under sub-section (*1*) shall continue in force for not more than one year from the date on which it was granted and may be revoked at any time by the Chairman if he considers that the sky-sign for which it was granted has become dangerous to the public or is likely to fall into a street or public place.

Execution of works in streets.

Guarding and lighting when public street opened or broken up and speedy completion of work.

[1]**345.** (*1*) When any drain in, or the pavement or surface of any public street is opened or broken up for the purpose of carrying on any work, or when any public street is under construction, the Chairman shall cause the place to be fenced and guarded and to be sufficiently lighted during the night, and shall take proper precautions for guarding against accident, by shoring up and protecting adjoining buildings, and shall, with all convenient speed, complete the said work, fill in the ground and repair the said drain, pavement or surface, and carry away the rubbish occasioned thereby.

(*2*) No person shall, without lawful authority, remove any fence or shoring-timber, or remove or extinguish any light, set up under sub-section (*1*).

Prevention or restriction of traffic in street during progress of work.

[1]**346.** (*1*) When any work referred to in section 345 is being executed in any public street, or when any other work which may lawfully be done is being executed in any street the Chairman may direct that such street shall, during the progress of such work, be either wholly or partially closed to traffic generally or to traffic of any specified description.

(*2*) When any such direction has been given, the Chairman shall set up in a conspicuous position in or near the street an order prohibiting traffic to the extent so directed, and shall fix

[1] The application of ss. 345 and 346 is barred in certain cases by the Calcutta Improvement Act, 1911 (Ben. Act 5 of 1911), s. 57 (2), *post*, p. 792.

(Part V.—The Public Health, Safety and Convenience—Chapter XVIII—Streets and Public Places—Secs 317-350)

such bars, chains or posts across or in the street as he may think proper for preventing or restricting traffic therein

(3) No person shall, without lawful authority, infringe any such order or remove any such bar, chain or post

347. (1) When any work is being executed by any municipal authority in any public street, the Chairman shall so far as may reasonably be practicable, make adequate provision for— Provision of facilities and payment of compensation when work executed by municipal authority in public streets

(a) the passage or diversion of traffic,

(b) securing access to all premises approached from such street; and

(c) any drainage, water-supply, or means of lighting which are interrupted by reason of the execution of the work

(2) The Chairman shall pay compensation to any person who sustains special damage by reason of the execution of any such work.

Naming of public streets and numbering of buildings

348. (1) The Chairman shall, from time to time, cause to be put up or painted, in a durable manner, on a conspicuous part of some building, wall or place, at or near each end corner or entrance of every public street, such name as the Corporation may from time to time determine as the name by which such street is to be known Naming of public streets

(2) No person shall, without lawful authority, destroy pull down, or deface any such name, or put up any name different from that put up by order of the Chairman

349. (1) The Chairman shall, from time to time, cause a number to be affixed in a conspicuous place on the outside of each building in or near a street or at the entrance of the enclosure of each such building Numbering of buildings in or near street

(2) No person shall, without lawful authority, destroy pull down, or deface any such number

(3) When a number has been affixed under sub section (1), the owner of the building shall be bound to maintain such number and to replace it if removed or defaced, and if he fails to do so, the Chairman may, by written notice, require him to replace the number.

Lines of buildings and public streets

350. (1) If the General Committee consider it expedient to define the general line of buildings on each or either side of any public street at the time in existence, they shall give public notice of their intention so to do Power to define general line of buildings

(*2*) Such line shall not be defined so as to extend further back than the line of the wall abutting on the street at its widest part.

(*3*) Every such notice shall specify a period within which objections will be received.

(*4*) The General Committee shall consider all objections received within the said period, and may then make an order[1] defining the said line.

(*5*) Such order shall be published in the Calcutta Gazette, and shall take effect from the date of such publication.

Restrictions on construction of buildings or walls within such line

351. No portion of any building or wall abutting on a public street shall be constructed within the line (if any) defined under section 350:

Provided that the General Committee may, in their discretion, permit additions to be made within such line if they merely add to the height of, and rest upon, an existing building or wall, upon the owner executing an agreement binding himself and his successors in interest—

(*a*) not to claim compensation in the event of the Committee at any time thereafter deciding that such additions or any portion thereof ought to be removed, and

(*b*) to pay the expenses of such removal.

Setting back projecting buildings or walls

352. (*1*) When any building, wall, or part thereof projecting across a line defined under section 350, or beyond the front of the building or wall on either side of such first-mentioned building or wall, has fallen down or been burnt down or taken down, the General Committee may, by written notice, require the same to be set back to or towards the said line or the line of either of the adjoining buildings or walls.

(*2*) When any building or wall is set back in pursuance of any requisition made under sub-section (*1*), the Corporation shall forthwith make full compensation to the owner of the building or wall for any direct damage which he may sustain thereby.

(*3*) The portion of land added to a street by virtue of any such requisition shall become part of the street and shall vest in the Corporation; and the Chairman may forthwith take possession of the same on behalf of the Corporation and, if necessary, clear it.

Explanation.—The expression "direct damage," as used in sub-section (*2*) with reference to land, means the market-value of the land taken and the depreciation, if any, in the ordinary market-value of the rest of the land resulting from the area being reduced in size; but does not include damage due to any particular use to which the owner may allege that he intended to put the land, although such use may be injuriously affected by the reduction of the site.

[1] For a list of orders made under section 350 (3), *see* the Bengal Local Statutory Rules and Orders, 1912, Vol I, Pt VI, and for subsequent orders, *see* Calcutta Gazette, 1912, Pt IB, pp 122, 137, 140, 166, 213, 217; *ibid*, 1913, Pt IB, pp 31, 41, 280, *ibid*, 1914, Pt IB, pp 36, 84, 279, 294, 313, 319, and *ibid*, 1915, Pt. IB, pp. 29, 61

(Part V—The Public Health, Safety and Convenience—Chapter XXIII—Streets and Public Places—Secs 353-356)

353. The General Committee may, upon such terms as they think fit, allow any building or wall to be set forward for the purpose of improving the line of a public street

Setting buildings forward to improve line of public street

Opening, improvement and closing of public streets

354. The General Committee, with the sanction of the Corporation, may—

Power of General Committee to make improve and close streets

(a) lay out and make new streets,

(b) construct new bridges and sub-ways,

[1] (c) turn, divert, discontinue or permanently close any public street or part thereof, and

(d) widen, open, enlarge, or otherwise improve any public street

[1] **355.** (1) When any public street is permanently closed under section 354, the Corporation may sell or lease the site of so much of the road-way and footpath as is no longer required making due compensation to any person injured by such closing

Power to dispose of so much of a permanently closed street as is not required

(2) In determining such compensation under section 617, the Court shall make allowance for any benefit accruing to the same premises or any adjacent premises belonging to the same owner from the construction or improvement of any other public street at or about the same time that the public street, on account of which the compensation is paid, is closed

356. (1) The General Committee may from time to time prepare schemes and plans of proposed public streets, showing the direction of such streets, the street alignment and building line on each side of them, their intended width, and such other details as may appear desirable

Projected public streets

(2) The width of such proposed streets shall not be less than forty feet, or, in a *bustee*, twenty feet, inclusive of space for footpaths

Provided that this sub-section shall not apply in any case in which the street alignment runs along an existing street, and the General Committee consider it impracticable to widen the street to the extent of forty feet or twenty feet, as the case may be

(3) It shall be the duty of the General Committee to lay out public streets in *bustees* so far as may be practicable, both for the purpose of securing proper ventilation for huts in such *bustees*, and in view to the contingency of masonry buildings being erected therein

(4) When any plan has been prepared under sub-section (1), the street to which it refers shall be deemed to be a projected

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[1] The application of ss 354 (c) and 355 is barred in certain cases by the Calcutta Improvement Act 1911 (Ben Act 5 of 1911), s 57 (1) post p 7**

public street, and the provisions of section 352 shall apply to all buildings and walls which may fall down or be burnt down or taken down, so far as they stood across the street alignment or building line of the projected street

Acquisition of land and buildings.

Acquisition of land and buildings for improvement of public streets

357. (*1*) The Chairman, with the approval of the Corporation, may acquire any land required for the purpose of opening, widening extending or otherwise improving any public street [illegible] blic street, and the buildings, if any,

[illegible] ith the approval of the Corporation and the sanction of the Local Government, may acquire, in addition to land and buildings acquired under sub-section (*1*), any land outside the proposed street alignment, with the buildings, if any, standing thereupon, which the Corporation may, in the exercise of any of the powers conferred by sub-section (*1*), consider it expedient to acquire

Provided that, in any case in which it is decided to acquire any land under this sub-section, the owner of such land may retain it by paying to the Corporation an annual sum to be fixed by the General Committee in that behalf, or a lump sum to be fixed by the General Committee, not being less than twenty-five times such annual sum.

(*3*) If any sum payable in pursuance of the proviso to sub-section (*2*) in respect of any land be not duly paid, the same shall be recoverable in the manner provided by this Act for the recovery of the consolidated rate; and if not so recovered, the Chairman may enter upon the land and sell the same, with any erections standing thereon, by public auction, and may deduct the said sum and the expenses of the sale from the proceeds of the sale, and shall pay the balance (if any) to the defaulter

(*4*) Any sum paid in pursuance of the proviso to sub-section (*2*) or recovered under sub-section (*3*) in respect of any land shall be left out of account in determining the annual value of such land for the purpose of assessing it to the consolidated rate

(*5*) Any land or building acquired under sub-section (*2*) may be sold, leased or otherwise disposed of by the General Committee after public advertisement, and any conveyance made for that purpose may comprise such conditions as the Committee think fit as to the removal of the existing building (if any), the description of new building (if any) to be erected, the period within [1] such new building (if any) shall be completed, and any other similar matters

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[1] See Insert which

(Part V.—The Public Health, Safety and Convenience—Chapter XXIII—Streets and Public Places—Secs. 358-360)

(6) The General Committee may require any person to whom any land or building is transferred under sub section *(5)* to comply with any conditions comprised in the said conveyance before they place him in possession of the land or building

Special provisions as to private streets

358. *(1)* Any person intending to make or lay out a new private street must send to the Chairman a written notice, with plans and sections showing the following particulars, namely - Making of new private streets

- *(a)* the intended level and width of the street,
- *(b)* the street alignment and the building line, and
- *(c)* the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewering, draining and lighting the street

(2) The provisions of this Act as to the level and width of public streets and the height of buildings abutting thereon shall apply also in the case of streets referred to in sub-section *(1)*, and all the particulars referred to in that sub-section shall be subject to approval by the General Committee

(3) Within thirty days after the receipt of any notice under sub-section *(1)*, the General Committee shall either sanction the making of the street, or disallow it, or ask for further information with respect to it

(4) Such sanction may be refused—

- *(i)* if the proposed street would conflict with any arrangements which have been made, or which are in the opinion of the General Committee likely to be made, for carrying out any general scheme of street improvement,
- *(ii)* if the proposed street does not conform to the provisions of this Act referred to in sub-section *(2)* or
- *(iii)* if the proposed street is not designed so as to connect at one end with a street which is already open

(5) If further information is asked for, no steps shall be taken to make or lay out the street until orders have been passed upon receipt of such information

359. No person shall make or lay out any street referred to in section 358, sub section *(1)*, until he has obtained the sanction of the General Committee under that section, or in contravention of any orders made thereunder. Prohibition of breach of section 358

360. *(1)* If any person makes or lays out any street referred to in section 358, sub-section *(1)*, without having obtained the sanction of the General Committee under that section, or in contravention of any orders made thereunder, the Chairman Alteration or demolition of street made in breach of section 359

may, with the sanction of the General Committee, whether or not the offender be prosecuted under this Act, by written notice,—

(*a*) require the offender to show sufficient cause, by a written statement signed by him and sent to the Chairman on or before such day as may be specified in the notice why such street should not be altered to the satisfaction of the Chairman, or, if such alteration be impracticable, why such street should not be demolished, or

(*b*) require the offender to appear before the Chairman, either personally or by a duly authorized agent, on such day and at such time and place as may be specified in the notice, and show cause as aforesaid.

(*2*) If any person on whom such notice is served fails to show sufficient cause, to the satisfaction of the Chairman, why such street should not be so altered or demolished, the Chairman may cause the street to be so altered or demolished, and the expenses thereof shall be paid by such person

Levelling etc of private streets

361. (*1*) If any private street or any part thereof be not levelled, paved, metalled, flagged, channelled, sewered, drained, and lighted to the satisfaction of the General Committee, they may, by written notice to the respective owners or occupiers of the land fronting, adjoining or abutting upon such street or part, as the case may be, require them to level, pave, metal, flag channel, sewer, drain and light such street or part.

(*2*) If such notice be not complied with, the General Committee may, if they think fit, direct the Chairman to execute the works mentioned or referred to therein, and the expenses thereby incurred shall be paid by the owners in default, according to the frontage of their respective lands, in such proportion as may be settled by the General Committee or, in case of dispute, as may be settled under section 617.

Power of Corporation to take over private streets

362. (*1*) If any private street which conforms to the provisions of this Act referred to in section 358, sub-section (*2*), be levelled, paved, metalled, flagged, channelled, sewered, drained and lighted to the satisfaction of the General Committee, the Corporation may, if they think fit, and if three-fourths of the owners of buildings in such street signify in writing their consent thereto, declare the same, by written notice put up in any part of such street, to be a public street, and thereupon the same shall become a public street and shall vest in the Corporation.

(*2*) The Corporation may, with the consent of the owner or all the owners thereof, take possession of any private street which conforms to the provisions of this Act referred to in

section 358, sub-section (2), and thereupon such street shall become a public street and shall vest in the Corporation

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CHAPTER XXIV

BUILDINGS [1]

363. After the commencement of this Act no piece of land shall be used as a site for the erection of a building, and no building shall be erected or re-erected, otherwise than in accordance with the provisions of this Chapter and Schedule XVII, and any orders rules or by-laws made under this Act, relating to the use of building sites or the erection or re-erection of buildings, as the case may be

Use of building sites and erection and re-erection of buildings

Building-sites

364. (1) If any site is so shaped or situated or is of such size that the owner is debarred, by the operation of this Act or the rules or by-laws made hereunder, from erecting a building on the site, the General Committee may, with the consent of the owner, sell the site by public auction

Sale of site unsuitable for building

(2) The General Committee shall, with the like consent, fix a price below which the site shall not be sold, and owners of adjacent lands shall have a right, in preference to all other persons, to buy the site at any sum bid at the auction over and above such price

(3) The proceeds of the sale shall, after deducting the expenses of effecting it, be paid to the aforesaid owner

365 (1) When two or more adjoining plots of land are, by reason of their shape, situation or size individually unsuitable for the construction of buildings in accordance with the provisions of this Act and the rules and by-laws made hereunder, and the owners of such plots cannot agree to amalgamate and re-divide the plots in order to admit of the construction of buildings as aforesaid, the General Committee may, on the written request of the owners of not less than three-fourths of the area of such plots, take possession of the land and form it into suitable building-sites

Formation of plots into suitable building sites and sale of such sites

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[1] As to the exemption of Government buildings and lands *see* the Government Buildings Act, 1899 (4 of 1899) in the General Acts 1898-1903 Ed 1909 p 438

(2) When such sites have been so formed, the General Committee shall cause each of them to be separately put up for sale by public auction and may fix in respect of each site a price below which it shall not be sold

(3) If no sufficient offer is made at the auction for any site, the General Committee may as often as they may think fit, cause it to be again put up for sale and alter the upset price, or may with the consent of all the owners of whose land the site forms part dispose of it by private sale

(4) The proceeds of every sale of a site under this section shall, after deducting the expenses of effecting the sale, be divided among the owners of the land from which the site was formed, in proportion to the relative value of their shares in such land, and such proportion shall be determined by the General Committee whose decision shall be final

Implied covenant in sales of land for sub-division to building sites

366. When any person after the commencement of this Act sells land for sub-division into building-sites, and the area of any such site is too small to admit of sufficient land being left for the formation of a street in accordance with the provisions of this Act the instrument of sale shall be deemed in the absence of an express clause therein to the contrary, to include a covenant binding the vendor, his executors, administrators and assigns to provide free of further payment so much additional land as may be needed for the formation of such street

Buildings generally

Power to regulate future erection of certain classes of buildings in particular streets or localities

367. (1) The Corporation may, at the instance of the General Committee, give public notice of their intention to declare—

(a) that in any streets or portions of streets specified in the notice —

(i) continuous building will be allowed, subject to the provisions of this Act relating to continuous building, or

(ii) the elevation and construction of the frontage of all masonry buildings thereafter erected or re-erected shall, in respect of their architectural features, be such as the General Committee may consider suitable to the locality, or

(b) that, in any localities specified in the notice, the erection of only detached buildings will be allowed, subject to the provisions of this Act relating to detached buildings, or

(*Part V—The Public Health, Safety and Convenience—Chapter XXIV.—Buildings—Sec. 368*)

(*c*) that, in any streets, portions of streets, or localities specified in the notice,—

(*i*) the erection of shops will not be allowed without the special permission of the General Committee, or

(*ii*) the erection of buildings of the warehouse class will not be allowed without the special permission of the General Committee, or

(*iii*) the erection of buildings of the warehouse class will be allowed, subject to the provisions of this Act relating to such buildings, or

(*iv*) the erection of huts will not be allowed without the special permission of the General Committee

(*2*) No objections to any such declaration shall be received after a period of three months from the publication of such notice

(*3*) The General Committee shall consider all objections received within the said period, and shall then report to the Corporation, who may prepare a declaration relating to the streets or localities referred to in the notice and submit the declaration to the Local Government, together with the said objections (if any) and their report upon them

(*4*) The Local Government, after considering the said objections (if any) may confirm [1] the declaration and before doing so may modify it, but not so as to extend its effect

(*5*) When any such declaration has been so confirmed, it shall be published in the Calcutta Gazette and shall take effect from the date of such publication.

(*6*) No person shall erect or re-erect any building in contravention of any such declaration

368. (*1*) External roofs or walls of buildings shall not after the commencement of this Act be made of grass leaves, mats, canvas or other inflammable materials

Prohibition of inflammable materials for roofs or external walls

(*2*) The General Committee may, by written notice require the owner of any building situated in or near a street and contiguous to or adjoining any other building, and having at the commencement of this Act an external roof or wall made of any such inflammable material as aforesaid, to remove or alter such roof or wall

Explanation—Sub sections (*1*) and (*2*) do not apply to bamboo shingle or wood

(*3*) Sub-sections (*1*) and (*2*) shall not apply to any garden-hut, orchid-house, fernery or other similar structure within a

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[1] For a list of orders made under section 367 (*4*) *see* the Bengal Local Statutory Rules and Orders 1919 Vol I, Pt VI, and for a further order *see* Calcutta Gazette 1912, Pt I B p [illegible], and *ibid*, 1915, Pt IB, p 3

compound, unless in any particular case the General Committee consider any such structure to be dangerous.

(4) Nor shall sub-sections (1) and (2) apply to the area which was added to Calcutta by the Calcutta Municipal Consolidation Act[1] or to any area hereafter included in Calcutta under section 637, or to any portion of any of those areas, until they have been specially extended thereto by a resolution passed by the Corporation.

Masonry Buildings.

External doors of public buildings.

369. The General Committee may, by written notice, require the owner of any public building, whether erected before or after the commencement of this Act, to provide the building with external doors or door-ways of such number, height and width as the Committee may consider necessary, or to cause the external doors thereof to be so constructed or altered as to open outwards.

Application for permission to erect or re-erect a masonry building.

370. (1) Every person who intends to erect or re-erect a masonry building shall send to the Chairman—

(a) an application for approval of the site, together with a site-plan of the land, and

(b) an application for permission to execute the work, together with a plan of the building, complete elevations and sections of the work and a specification of the work.

(2) Every document referred to in sub-section (1) shall contain the particulars and be prepared in the manner prescribed in this behalf in Schedule XVII.

Permission to erect or re-erect masonry building not to be given unless and until site approved.

371. Permission to erect or re-erect a masonry building shall not be given unless and until the Chairman has approved the site on an application sent to him under section 370.

Work not to be commenced unless and until permission given.

372. The erection or re-erection of a masonry building shall not be commenced unless and until the Chairman has granted written permission for the execution of the work on an application sent to him under section 370.

Approval of site when to be given or refused.

373. Within thirty days after the receipt of any application made under section 370 for approval of a site, or of any information or further information required under Schedule XVII, or within fifteen days after the Chairman has been satisfied that there are no objections which may lawfully be taken to the approval of the site, the Chairman shall, by

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[1] Ben. Act 2 of 1888 was repealed by section 2 of the present Act, ante, p. 220.

written order, either approve the site or refuse, on one or more of the grounds mentioned in section 377, to approve the site

Provided that the making of such order shall not in any case be delayed for more than thirty days after the Chairman has received all the information which he considers necessary to enable him to deal finally with the said application

374. Within thirty days after the receipt of any application made under section 370 for permission to execute any work, or of any information or documents or further information or documents required under Schedule XVII or within fifteen days after the Chairman has been satisfied that there are no objections which may lawfully be taken to the grant of permission to execute the work, the Chairman shall, by written order, either grant permission to execute the work or refuse on one or more of the grounds mentioned in section 377 or section 378, to grant such permission

Permission to execute work when to be given or refused

Provided that the said period of thirty days shall not, in any of the cases mentioned in this section, begin to run until the site has been approved under section 373

Provided also that the making of such order shall not in any case be delayed for more than thirty days after the Chairman has received all the information which he considers necessary to enable him to deal finally with the said application

375. (*1*) Whenever the Chairman refuses to approve a building-site for a masonry building, or to grant permission to erect or re-erect a masonry building, he shall state specifically the grounds for such refusal, and the applicant may appeal to the General Committee against such refusal

Record of reasons and appeal when approval or permission refused

(*2*) The decision of the General Committee shall be final

(*3*) If the General Committee reject any such appeal, they shall, by written order, specifically state the grounds for such rejection

376. (*1*) If, within the period prescribed by section 373 or section 374, as the case may be, the Chairman has neither given nor refused his approval of a building-site, or his permission to execute any work, as the case may be, the General Committee shall be bound, on the written request of the applicant, to determine, by written order, immediately on the expiration of such period, whether such approval or permission should be given or not

Reference to General Committee if Chairman delays grant or refusal of approval or permission

(*2*) If the General Committee do not, within fifteen days from the receipt of such written request, determine whether such approval or permission should be given or not, such approval or permission shall be deemed to have been given, and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules or by-laws made hereunder.

(*Part V—The Public Health, Safety and Convenience—Chapter XXIV.—Buildings—Secs. 377-382.*)

Grounds on which approval of site for or permission to erect or re-erect a masonry building may be refused

377. The only grounds on which approval of a site for the erection or re-erection of a masonry building, or permission to erect or re-erect a masonry building, may be refused are the following, namely :—

(*1*) that the work, or any of the particulars comprised in the site plan, building plan, elevations, sections or specification would contravene some specified provision of this Act or some specified order, rule or by-law made hereunder;

(*2*) that the application for such permission does not contain the particulars or is not prepared in the manner prescribed in Schedule XVII;

(*3*) that any of the documents referred to in section 370 have not been signed as prescribed in the said Schedule;

(*4*) that any information or documents required by the Chairman under the said Schedule has or have not been duly furnished; or

(*5*) that the applicant has not satisfied the Chairman that there are no objections which may lawfully be taken, on any of the grounds hereinbefore in this section mentioned, to the grant of the said approval or permission

Special powers for suspending or granting permission to erect a masonry building or convert huts, etc into a masonry building

378. Notwithstanding anything contained in section 377,—

(*a*) if any street shown in the site-plan is an intended private street, the Chairman may at his discretion refuse to grant permission to erect a masonry building or to convert one or more huts or temporary structures into a masonry building until the street is commenced or completed, and

(*b*) the Chairman may for special reasons grant permission to erect a masonry building, or to convert one or more huts or temporary structures into a masonry building, on any site without reference to its position in relation to any street

Lapse of permission, if not acted upon within one year

379. If the erection or re-erection of any masonry building is not commenced within one year after the date on which permission was given to execute the work, the work shall not be commenced until a fresh application has been made and a fresh permission granted under this Chapter.

Notice before commencing work

380. Not less than three days before any person commences to erect or re-erect a masonry building, the owner of the building shall send to the Engineer a written notice specifying the date on which it is proposed to commence the work.

Notice after completion of work

381. Within one month after the erection or re-erection of a masonry building has been completed, the owner shall send to the Engineer a written notice of the fact

Inspection by Chairman

382. The Chairman may, at any time during the erection or re-erection of any masonry building, or within one month

after the receipt of the notice sent under section 381 with respect to any masonry building, inspect such building, without giving previous notice of his intention so to do.

Powers of Chairman on making inspection.

383. (*1*) If, on making any such inspection, the Chairman finds that the building is being or has been constructed—

(*a*) otherwise than in accordance with the plans thereof which he has approved, or

(*b*) in such a way as to contravene any of the provisions of this Act or any rules or by-laws made under this Act,

he may, by written notice, require the owner of the building either—

(*i*) to make such alterations as may be specified in the notice with the object of bringing the work into conformity with the said plans or provisions, or

(*ii*) to appear before him and show cause why such alterations should not be made.

(*2*) If such owner does not appear and show cause as aforesaid, he shall be bound to make the alterations specified in such notice.

(*3*) If such owner appears and shows cause as aforesaid, the Chairman shall, after hearing him, cancel the notice issued under sub-section (*1*) or confirm the same subject to such modifications, if any, as he may think fit.

(*4*) An appeal shall lie to the General Committee from any requisition made under sub-section (*1*) or order passed under sub-section (*3*) for the alteration of a building, and their decision shall be final.

Huts.

Application to be sent and particulars furnished by person intending to erect or re-erect a hut.

384. (*1*) Every person who intends to erect or re-erect a hut shall send to the Chairman—

(*a*) an application for permission to execute the work, and

(*b*) a site-plan of the land.

(*2*) Every such application and plan shall contain the particulars and be prepared in the manner prescribed in this behalf in Schedule XVII.

Work not to be commenced unless and until permission given.

385. The erection or re-erection of a hut shall not be commenced unless and until the Chairman has granted written permission for the execution of the work on an application sent to him under section 384.

Permission to execute work when to be given or refused.

386. Within fourteen days after the receipt of any application made under section 384 for permission to erect or re-erect a hut, or of any information or plan or further information or fresh plan required under Schedule XVII, or within fourteen

days after the Chairman has been satisfied that there are no objections which may lawfully be taken to the execution of the work, the Chairman shall, by written order, either grant such permission or refuse, on one or more of the grounds mentioned in section 389, to grant it:

Provided that the making of such order shall not in any case be delayed for more than fourteen days after the Chairman has received all the information which he considers necessary to enable him to deal finally with the said application.

Record of reasons, and appeal, when permission refused

387. (*1*) Whenever the Chairman refuses to grant such permission as aforesaid, he shall state specifically the grounds for such refusal, and the applicant may appeal to the General Committee against such refusal.

(*2*) The decision of the General Committee shall be final.

(*3*) If the General Committee reject any such appeal, they shall, by written order, specifically state the grounds for such rejection.

Reference to General Committee if Chairman delays grant or refusal of permission

388. (*1*) If, within the period prescribed by section 386, the Chairman has neither granted nor refused to grant permission to erect or re-erect a hut, the General Committee shall be bound, on the written request of the applicant, to determine, by written order, immediately on the expiration of such period, whether such permission should be granted or not.

(*2*) If the General Committee do not, within fifteen days from the receipt of such written request, determine whether such permission should be granted or not, such permission shall be deemed to have been granted; and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules or by-laws made hereunder.

Grounds on which permission to erect or re-erect a hut may be refused

389. The only grounds on which permission to erect or re-erect a hut may be refused are the following, namely:—

(*1*) that the work would contravene some specified provision of this Act or some specified order, rule or by-law made hereunder;

(*2*) that the application for such permission does not contain the particulars or is not prepared in the manner prescribed in Schedule XVII;

(*3*) that any information or plan required by the Chairman under the said Schedule has not been duly furnished; or

(*4*) that the applicant has not satisfied the Chairman that there are no objections which may lawfully be taken, on any of the grounds hereinbefore in this section mentioned, to the grant of the said permission.

of 1899.]

(Part V.—The Public Health, Safety and Convenience—Chapter XXIV—Buildings—Secs. 390-392)

390. If the erection or re-erection of any hut is not commenced within six months after the date on which permission was given to execute the work, the work shall not be commenced until a fresh application has been made and a fresh permission granted under this Chapter.

Lapse of permission, if not acted up on within six months

Application of Act to alterations of, and additions to, buildings

391. (1) Without the consent of the General Committee, no person shall make any alteration of, or addition to, any building in such manner that when so altered or added to the building will, by reason of such alteration or addition, not be in conformity with the provisions of this Chapter or Schedule XVII, or any orders, rules or by-laws made under this Act, relating to the erection of buildings.

Application of Act to alterations of, and additions to, buildings

(2) Every alteration of, or addition to, a building and any other work made or done for any purpose in, to, or upon a building, shall, so far as regards such alteration, addition or other work, be subject to the provisions of this Chapter and Schedule XVII, and any orders, rules or by-laws made under this Act, relating to the erection of buildings:

Provided as follows:—

(a) none of the said provisions, orders, rules or by-laws shall apply in the case of a necessary repair not affecting the position or dimensions of a building;

(b) sections 370 to 383 or sections 384 to 390, as the case may be, shall not apply in the case of any alteration of, or addition to, a building unless one or more of the works referred to in rule 52 of Schedule XVII is or are undertaken;

(c) provisional permission to proceed with any of the works referred to in the said rule 52 may be granted in the cases and subject to the conditions prescribed in this behalf in the said Schedule XVII.

(3) If any question arises as to whether any alteration, addition or other work is a necessary repair not affecting the position or dimensions of a building, the matter shall be referred to the General Committee, whose decision shall be final.

Compensation

392. If permission to erect a masonry building or to convert one or more huts or temporary structures into a masonry building is refused on the ground that the site falls wholly or in part within the street alignment of any projected public street, and if the site or the portion thereof which falls within such alignment be not acquired by the Chairman under

Compensation after refusal to masonry building when site is within street alignment of projected public street

section 357 within one year after the date of such refusal, the Corporation shall pay reasonable compensation to the owner of the site

Exemptions

Exemptions

393. The following buildings shall be exempted from this Chapter, that is to say —

(*a*) any building erected and used, or intended to be erected and used, exclusively for the purpose of a plant-house, summer-house (not being a dwelling-house), poultry-house or aviary, provided the building be wholly detached from, and situated at a distance of at least ten feet from, the nearest adjacent building, and

(*b*) any building erected or intended to be erected by, or with the sanction of, the Corporation, or the General Committee, for use solely as a temporary hospital for the reception and treatment of persons suffering from any dangerous disease

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CHAPTER XXV

GENERAL IMPROVEMENTS

Power to acquire land and buildings for improvements

394. The Corporation may acquire any land and buildings, whether situated in Calcutta or not,—

(*1*) for the purpose of opening out any congested or unhealthy area or of otherwise improving any portion of Calcutta, or

(*2*) for the purpose of erecting sanitary dwellings for the poorer classes

Scheme for carrying out such improvements

395. (*1*) When any land or building has been acquired in pursuance of section 394 for the purpose of carrying out any work, the General Committee shall frame a scheme for the carrying out of such work either by themselves or by some person who satisfies the General Committee of his ability to carry out such work

(*2*) When any scheme is framed under sub-section (*1*) for the carrying out of work by any person, the scheme shall

embody the terms and conditions agreed upon between the General Committee and such person, and such conditions shall include a power to the Chairman to superintend and control the execution of the work

(3) Every scheme framed under sub-section (1) shall be published in the Calcutta Gazette and in such other manner as the General Committee may think fit, together with a notice specifying a period within which objections will be received

(4) The General Committee shall consider all objections received within the said period, and shall then submit the scheme to the Corporation, together with the said objections (if any) and their report upon them

(5) The Corporation shall, after considering the scheme and the said objections and report (if any), submit the documents to the Local Government, with any recommendations they may desire to make

(6) The Local Government, after considering the said objections, report and recommendations (if any), may confirm the scheme, and before doing so may modify it, but not so as to extend its effect

Power of General Committee to carry out improvements

396. When any scheme for the carrying out of work by the General Committee has been confirmed by the Local Government, the General Committee may proceed to carry out the work in accordance with the scheme

Transfer of land and buildings to person for carrying out improvements

397. (1) When any scheme for the carrying out of work by any person has been confirmed by the Local Government, the Corporation may sell, lease or otherwise transfer to such person the land and buildings which have been acquired in pursuance of section 394, for the purpose and under the condition that he will carry out such work in accordance with such scheme

(2) Every lease granted by the Corporation under this section shall be deemed to include a covenant authorizing the Corporation to re-enter in the event of the lessee failing to carry out any work in accordance with the said scheme or in the event of the lessee after carrying out the work, using the land or buildings leased to him, or any part thereof, or allowing the same to be used, for any purpose which is inconsistent with the said scheme

(3) Before possession of any land or building is given by the Corporation in pursuance of any contract (other than a lease) made under this section, the Corporation shall take security for the due carrying out and maintenance of work in accordance with the said scheme

(4) The covenant referred to in sub-section (2) shall be binding on all transferees from the original grantee

CHAPTER XXVI

BUSTEES

Preliminary

Power to define and alter limits of *bustees*

398. The General Committee may define the external limits of any *bustee* and may from time to time alter such limits

Restriction on application of this Chapter to masonry buildings in *bustees*

399. None of the powers conferred by any of the following sections of this Chapter shall be exercisable in respect of masonry buildings in a *bustee* or lands pertaining to such buildings unless such buildings and lands be purchased or acquired by the Corporation

Improvement of Bustees

Preparation of standard plan by owners

400. (*1*) The General Committee may at any time serve a written notice upon the owners of a *bustee* requiring them to prepare a joint plan of the *bustee* to the scale of twenty five feet to the inch showing—

(*a*) the manner in which the *bustee* should be laid out with the huts standing in regular lines and with a free passage in front of and behind each line of such width as may be necessary for ventilation and for scavenging

(*b*) the proposed drains

(*c*) the water supply the bathing arrangements (if any) and the privy accommodation to be provided for the use of the tenants

(*d*) the streets and passages which are to be maintained for the benefit of the tenants

(*e*) the land (if any) which is to be kept as common land

(*f*) the tanks which are to be filled up and the tanks which are to be conserved and

(*g*) any other proposed improvements

(*2*) The streets referred to in clause (*d*) shall be not less than twenty feet wide and not more than two hundred feet apart and the passages referred to in that clause shall be not less than fifteen feet wide

(*3*) If any land within the limits of a *bustee* is not *bustee* land the said plan shall be so prepared as clearly to distinguish such land from the *bustee* land

(*4*) The said plan shall be considered by the General Committee and such modifications shall be made therein as they may require

(*5*) The said plan shall then be laid before the Corporation, and, when approved by them, shall be deemed to be the standard plan of the *bustee*

Preparation of standard plan by General Committee in default of owners

401. (*1*) After the service of a notice under section 400 on the owners of any *bustee*, if such owners do not agree among themselves in the preparation of a plan as required by such notice, or if they for any reason prefer to have a plan prepared for them by the General Committee or if they fail to comply within sixty days with such notice, the General Committee shall, within a further period of sixty days, themselves prepare a plan to the scale and showing the particulars prescribed in the said section.

(*2*) When a plan has been prepared by the General Committee under sub-section (*1*), they shall fix a day for the hearing of objections made by or on behalf of the owners of the *bustee*, and may at their discretion modify the plan in accordance with any objection so made

(*3*) If such objections are disallowed, or when the plan has been modified in conformity with any of such objections, the plan shall be laid before the Corporation, and when approved by them shall be deemed to be the standard plan of the *bustee*

(*4*) When the the General Committee prepare a plan under sub-section (*1*), they may charge the said owners therefor at such rate not exceeding three rupees *per bigha* as the Corporation may fix, and such charge shall be recoverable in the manner provided by this Act for the recovery of the consolidated rate

Suspension of building pending preparation of standard plan

402. When the owners of a *bustee* have been required under section 400 to prepare a plan, no hut shall be erected, re-erected or added to within the *bustee* until a plan has been prepared and approved under that section or under section 401

Prohibition of building contrary to standard plan

403. When a standard plan has been prepared for any *bustee* under section 400 or section 401 no hut shall be erected, re-erected or added to in such *bustee* unless the hut, or the portion (if any) to be added, as the case may be, occupies a site, or portion of a site, marked in the standard plan as the site, for a hut.

Power to require re-erection of huts in conformity with standard plan

404. The General Committee may at any time, on paying compensation to the owner of any hut which is not in conformity with such standard plan, require him to take down the hut and re-erect it in conformity with the plan.

Power to require carrying out of other improvements in conformity with standard plan

405. (*1*) The General Committee may at any time, by written notice, require the owners of any *bustee* for which a standard plan has been prepared as aforesaid —

(*a*) to construct the drains, privies, streets and passages and carry out the other improvements shown in such standard plan, so far as may be practicable having regard to the existing arrangement of the huts, and

(b) if any tank is shown in such plan as to be filled up or improved to fill up or improve such tank

(2) Until such notice is complied with the Chairman may refuse to sanction the erection or re-erection of or the making of any addition to any hut in the *bustee*

Inspection report and preparation of standard plan by medical officer and engineer in cases requiring expedition

406. (1) If it appears to the General Committee that any *bustee* is by reason of the manner in which the huts are crowded together or for any other reason in such an unhealthy condition that the procedure provided by foregoing sections of this Chapter would be too dilatory to meet the emergency they may cause the *bustee* to be inspected by two officers one of whom shall be a medical officer and the other an engineer

(2) The said officers shall forthwith make a written report on the sanitary condition of the *bustee* and shall annex to the report a plan approved by them as a proper standard plan of the *bustee* and shall certify which of the improvements required to bring the *bustee* into conformity with such plan should be taken in hand forthwith in consequence of the unhealthy condition of the *bustee* and which of them should be deferred for action under the foregoing sections of this Chapter

(3) The former improvements shall be shown in a schedule to be annexed to the report and called Schedule A and that schedule must clearly indicate—

(a) the huts which should wholly or in part be removed
(b) the streets passages and drains which should be constructed
(c) the tanks or low lands which should be filled up
(d) other improvements which the said officers consider to be required in order to remove or abate the unhealthy condition of the *bustee* and
(e) if for the purpose of making such streets or passages or effecting any other improvement indicated in such schedule it is necessary to purchase or acquire any land within the *bustee* which is not *bustee* land—the land which should be so purchased or acquired

Approval by General Committee of standard plan annexed to such report

407. The General Committee shall within six months after the receipt of such report approve the standard plan annexed thereto after hearing the objections of the owner (if any) and after making such modifications (if any) as they may deem proper

Power of General Committee to require owners or occupiers to carry out improvements proposed in such report

408. The General Committee may cause a written notice to be served upon the owners or occupiers of the huts referred to in the said report or at the option of the Committee upon the owners of the land on which such huts are situated requiring them to carry out all or any of the improvements indicated in the said Schedule A or any portion of such improvements

of 1899.]

(*Part V—The Public Health, Safety and Convenience—Chapter XXVI.—Bustees.—Secs 409-413*)

409. (*1*) If, after the service of a notice under section 408, the said improvements are not duly carried out in accordance with the notice, the General Committee may cause all or any of such improvements, or any portion thereof, to be carried out. — Power of General Committee to carry out such improvements in default of owners

(*2*) All expenses incurred by the General Committee under sub-section (*1*), including such reasonable compensation as the Committee may think fit to pay to the owners or occupiers of huts removed, shall be paid by the owners of the land, and may be paid by instalments if the Committee so direct

Provided that, if it appears to the Committee that any such owner is unable, by reason of poverty, to pay such expenses or any portion thereof, they may order the same to be paid out of the Municipal Funds

410. (*1*) If any hut be pulled down in executing any improvements under the orders of the General Committee in pursuance of section 409, the Committee shall cause the materials of such hut to be given to the owner of the hut, or, if the owner be unknown or the title be disputed, the materials shall be sold and the proceeds of the sale, together with any sum which may be awarded as compensation under section 409, sub-section (*2*), shall be held in deposit by the Corporation until the person claiming the amount obtains an order from a competent Court for the payment of the same to him. — Disposal of materials of huts pulled down in pursuance of section 409

(*2*) A Court of Small Causes shall be deemed to be a competent Court for the purposes of this section

411. The Corporation may, at any time after the receipt of a report made under section 406, purchase or acquire any land (not being *bustee* land) which is mentioned in that behalf in Schedule A annexed to such report. — Power of Corporation to purchase or acquire land in pursuance of report made under section 406

412. When improvements have been carried out in any *bustee* under section 408 or section 409, the provisions of sections 403, 404 and 405 shall apply to the *bustee* for the purpose of bringing it into complete conformity with the standard plan approved under section 407 — Application of sections 403 to 405 in order to bring *bustee* into conformity with standard plan approved under section 407

413. (*1*) Notwithstanding anything contained in sections 407 to 412, the General Committee may, after receipt of a report made under section 406 with respect to any *bustee*, pass a resolution to the effect that the *bustee* is an unhealthy area and that, in their opinion, the purchase or acquisition of the *bustee*, or of any portion thereof, is necessary for the purpose of making the requisite improvements therein — Alternative power to General Committee to make standard plan, to purchase or acquire *bustee* and to carry out improvements themselves or through purchaser or lessee

(*2*) When any such resolution has been passed, the General Committee shall proceed to make a standard plan for the improvement of the said *bustee* or portion, and shall lay such plan before the Corporation, together with such estimates as

may be necessary for a due understanding of the same, and a copy of the said resolution.

(3) If the plan be approved by the Corporation, they shall submit it to the Local Government, together with the said estimates and a copy of the said resolution; and, if the plan be approved by the Local Government, the General Committee may purchase or acquire the said *bustee* or portion.

(4) When the said *bustee* or portion has been so purchased or acquired, the General Committee shall either—

(a) sell or let the same or part thereof to some person for the purpose and under the condition that he will, as respects the land so sold or leased to him, carry out the improvements shown in such standard plan, or

(b) themselves bring the said *bustee* or portion, together with any part thereof which has not been sold or leased under clause (a), into conformity with such standard plan.

(5) The General Committee shall be bound to proceed as directed by sub-section (4) within a period of two years from the date of their purchasing or acquiring the said *bustee* or portion in pursuance of sub-section (3), or within such further period (if any) as the Local Government may prescribe.

(6) Whenever action is taken under sub-section (4), clause (a) the provisions of sub-sections (2) and (4) or sub-section (3), as the case may be, of section 397, shall be applicable.

Proportions of area of *bustee* to be shown in standard plan as streets passages and open lands

414. (1) A standard plan prepared under this Chapter shall not without the consent of the owners, show more than one-third of the area of the *bustee* as streets or passages or more than one-half of the same as open lands not to be built upon, whether such open lands be common ground, streets, passages or spaces behind a line of huts.

(2) No tank that is not filled up shall be taken into account in calculating the said proportions of one-third and one-half.

Regulation of plots by standard plan and compensation for adjustment of plots

415. (1) Every such standard plan shall, as far as possible, provide for one or more huts being completely contained in each separate plot of *bustee* land within the *bustee*, and for the prescribed proportion of roadway and open ground in each plot, and, if a greater portion of any one plot is taken for streets, passages or open lands than the proportion allowed by section 414, the compensation which should be paid to the owner of such plot, and the persons who should pay such compensation by reason of their benefiting by the arrangement, must be specified in the plan.

(2) If no owner can equitably be called upon to pay such compensation, the same shall be paid by the Corporation.

(3) The compensation payable as aforesaid to the owner of any plot shall not be paid until such plot has been brought into complete conformity with the standard plan.

Streets shown in standard plan if not public streets to remain private

416. (1) The streets shown in the standard plan of a *bustee* which are not already public streets shall, unless the General Committee and the owners concerned otherwise agree, remain private streets, and the portion thereof which falls on the land of each owner shall belong to such owner

Provided that any portion of any such street which falls on land purchased or acquired by the Corporation in pursuance of section 411 shall remain the property of the Corporation

(2) Every such private street shall at all times be kept open to the use of the municipal authorities for scavenging purposes and for the other purposes of this Act and shall also be kept open for the use of all the tenants of the *bustee*, but no such use of any such street shall be held by any lapse of time to confer a right of way on the public so as to bring the street within the definition of a "public street"

Rights of owners of land and huts respectively, over streets land and drains shown in standard plan

417. When a standard plan for a *bustee* has been approved the several owners of *bustee* land shall respectively be deemed to be the occupiers of the streets and common ground of the *bustee* and of such drains of the *bustee* as serve more than one hut, so far as the same are constructed in accordance with such standard plan,

and the owner of each hut shall be deemed to be the occupier of the land occupied by his hut of that portion of the open space behind his hut which appertains to the hut, and of any drain which is provided for the sole use of his hut

Bustee when to be deemed a remodelled bustee

418. When a *bustee* has been brought into conformity with any standard plan approved under this Chapter it shall be deemed to be a remodelled *bustee*

Power to take land out of the category of bustee land

419. (1) Any owner of *bustee* land may at any time send a written notice to the Chairman that he intends to make such changes as will take the land or any part thereof out of the category of *bustee* land

(2) From the date of such notice no application shall be received for erecting, re-erecting or adding to any hut on such land.

(3) Such owner shall be bound to remove, within six months after the date of such notice all huts standing on such land, and, if he does not do so, the notice shall be deemed to be cancelled

(4) When all huts have been so removed, such land shall cease to be *bustee* land, and shall according to its situation, either be altogether excluded from the limits of the *bustee*, or be shown, in any standard plan approved for the *bustee* under this Chapter, as not being *bustee* land

Provided that, if any such land is shown in such plan as a street or part of a street, the same shall, unless the General Committee otherwise direct, continue to be a private street, and shall be subject to the provisions of section 416, sub-section (2)

Cleansing of Bustees.

Power to employ special establishment and impose special rate for cleansing bustee

420. (*1*) The General Committee may sanction the employment of a special establishment for the cleansing of any *bustee*, and, when any such establishment has been sanctioned, the Corporation may impose on the owners of the *bustee* a rate to defray the cost of the establishment

Provided that, without the consent of the owners, no such rate shall be imposed in respect of any *remodelled bustee*

(*2*) Any rate imposed under sub-section (*1*) shall be recoverable in the manner provided by this Act for the recovery of the consolidated rate

Powers of General Committee in other cases to secure cleansing of bustee

421. If any *bustee* for which no establishment is maintained under section 420 appears to the General Committee to be in a filthy condition, they may, by written notice, require the persons declared by section 417 to be occupiers to cleanse the *bustee* to the satisfaction of the Committee

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CHAPTER XXVII

LIGHTING

Provision for lighting of public streets markets and buildings

422. (*1*) The Chairman shall—

(*a*) take measures for lighting in a suitable manner the public streets and municipal markets and all buildings vested in the Corporation;

(*b*) procure, erect, and maintain such number of lamps, lamp-posts and other appurtenances as may be necessary for such lighting; and

(*c*) cause such lamps to be lighted by means of oil, gas, electricity or such other light as the Corporation may from time to time determine

(*2*) The Chairman may place and maintain electric wires for the purpose of lighting such lamps under, over, along or across any immovable property, and place and maintain posts poles, standards, stays, struts, brackets, tunnels, culverts and other contrivances for carrying, suspending, or supporting lamps or electric wires in or upon any immovable property,

without being liable to any claim for compensation therefor.

Provided that such wires posts poles standards stays struts brackets tunnels culverts and other contrivances shall be so placed as to occasion the least practicable inconvenience or nuisance to any person.

423. No person shall without lawful authority take away or wilfully break throw down or otherwise damage— Prohibition of removal etc. of lamps etc.

(*a*) any lamp lamp post or lamp iron set up in any public street or municipal market or in or on any building vested in the Corporation,

(*b*) any electric wire for lighting any such lamp, or

(*c*) any post pole standard stay strut bracket or other contrivance for carrying suspending or supporting any such electric wire or lamp,

and no person shall wilfully extinguish the light or damage any appurtenance of any such lamp.

424. If any person through negligence or accident breaks any lamp set up in or on any public street or municipal market or building vested in the Corporation he shall pay the expenses of repairing the damage so done by him. Person breaking lamp to pay for repair.

425. (*1*) No gas pipe shall be laid in a drain or on the surface of an oper[illegible] Gas pipes how to be laid.

(*2*) Gas pipes [illegible]
from water pipe [illegible]
and where the width of the street will allow of it the said distance shall not be less than four feet.

(*3*) When it is necessary for a gas pipe to cross a water pipe the gas pipe shall if practicable be laid above the water pipe.

(*4*) A gas pipe so laid shall be at least nine feet in length and as nearly as the situation will admit of shall be so placed as to form with the water pipe a right angle and so that no joint in the gas pipe will be nearer to any water pipe than four feet.

(*5*) The greatest practicable distance shall be kept between a water pipe and a gas pipe which crosses it and the gas pipe shall throughout its entire length be sufficiently bedded in with good sound clay or other fit material of a proper consistence which shall be well worked and rammed into a trench all round the gas pipe.

(*6*) If any gas pipe be laid in any way contrary to the provisions of this section the Chairman may make such alteration with respect to such pipe as he may think necessary and the expenses thereof shall be paid by the person under whose order or management the pipe has been laid.

(Part V.—The Public Health, Safety and Convenience—Chapter XXVII.—Lighting.—Chapter XXVIII.—Scavenging.—Secs. 426-429.)

Alteration of situation of gas pipes etc by direction of Chairman

426. (*1*) The Chairman may, whenever for any of the purposes of this Act it appears to him necessary to do so, by written notice, require the owner of any gas-pipe or of any other gas-work laid in any street to raise, sink or otherwise alter the situation of such pipe or work.

(*2*) Every alteration required to be made under sub-section (*1*) shall be made at the charge of the Municipal Funds; and compensation shall be paid to the owner by the Chairman for the damage, if any, which he sustains by reason of such alteration

(*3*) No alteration shall be made under this section which would prevent gas passing through any pipe or work as freely and conveniently as, having regard to all the requirements of this Act, is practicable

Railways streets etc not to be constructed over municipal gas pipe without permission

427. (*1*) Without the written permission of the Chairman, no railway or private street shall be constructed, and no building, wall or other structure shall be newly erected, over any gas-pipe belonging to the Corporation

(*2*) If any railway or private street be so constructed, or if any building, wall or structure be so erected, the Chairman may cause the same to be removed or otherwise dealt with as he may think fit, and the expenses thereby incurred shall be paid by the person offending

Control by General Committee

428. The Chairman shall, in the performance and exercise of the duties and powers imposed and conferred on him by this Chapter, be subject to the control of the General Committee

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CHAPTER XXVIII.

SCAVENGING.

Provision or appointment of receptacles, depôts and places for deposit or disposal of rubbish offensive matter sewage and carcasses

429. (*1*) The Chairman shall provide or appoint, in proper and convenient situations, public receptacles, depôts and places for the temporary deposit or final disposal of rubbish, offensive matter, sewage and the carcasses of dead animals

Provided as follows —

(*i*) the said things shall not be finally disposed of in any place or manner in which the same have not heretofore been so disposed of, without the sanction of the Corporation, or in any place or manner which the Local Government may disallow;

(*ii*) the powers conferred by this section shall be exercised in such manner as to create the least practicable nuisance.

(Part V—The Public Health, Safety and Convenience—Chapter XXVIII—Scavenging—Secs 430 431)

(2) Any land that may be required in a *bustee* for the temporary deposit or final disposal of rubbish offensive matter sewage or carcasses taken from buildings or land in such *bustee* shall be provided by the owners of the *bustee*

430. (*1*) The Chairman may by public notice direct that all rubbish and offensive matter accumulating in any premises in any street or quarter of Calcutta specified in the notice shall be collected by the occupier of such premises and deposited in a box or basket, of a kind prescribed by the Chairman to be provided by such occupier and kept at or near the entrance to the premises

Collection and temporary deposit of rubbish and offensive matter by occupiers of premises

(2) The Chairman may cause public dust-bins or other convenient receptacles to be provided at suitable intervals and in proper and convenient situations in streets or quarters in respect of which no notice issued under sub section (*1*) is for the time being in force

and may by public notice direct that all rubbish and offensive matter accumulating in any premises the entrance to which is situated within fifty yards of any such receptacle shall be collected by the occupier of such premises and deposited in such receptacle

(3) The Chairman may by public notice direct that all rubbish and offensive matter accumulating in any premises in any street or quarter in respect of which no notice issued under sub-section (*1*) or sub section (*2*) is for the time being in force, shall be collected by the occupier of such premises and deposited in lump in the street on which such premises abut or in some portion of such premises

(4) In any notice issued under any of the foregoing sub sections the Chairman shall prescribe the hours within which rubbish and offensive matter must be deposited as aforesaid

(5) In the exercise of his powers under this section the Chairman shall be subject to the control of the General Committee

431. When any premises are used for carrying on any manufacture trade or business in the course of which rubbish or offensive matter is accumulated in quantities which are in the opinion of the Chairman too considerable to be deposited in any of the methods prescribed by notice issued under section 430 the Chairman may —

Collection and removal of rubbish and offensive matter accumulating on business premises

(*a*) by written notice direct the occupier of such premises to collect all rubbish and offensive matter accumulating on such premises and to remove the same at such times in such carts or receptacles and by such routes as may be specified in the notice to a public receptacle depôt or place provided or appointed under section 429 or

(*b*) after giving such occupier written notice of his intention so to do, himself cause all rubbish and offensive matter accumulating in such premises to be removed, and charge such occupier for such removal such periodical fee as may, with the sanction of the *General Committee, be specified in such notice.*

Chairman to provide for cleansing of streets and removal of rubbish etc

432. For the purpose of securing the efficient scavenging and cleansing of all streets and premises, the Chairman shall take measures for securing—

(*a*) the daily surface-cleansing of all streets and the removal of the sweepings therefrom, and

(*b*) the removal of—

(*i*) the contents of all receptacles and depôts, and the accumulations at all places provided or appointed by him under section 429 for the temporary deposit of any of the things specified in that section, and

(*ii*) all things deposited by occupiers of premises in pursuance of any notice issued under section 430

Rubbish etc to be the property of the Corporation

433. All things deposited in receptacles, depôts or places provided or appointed under section 429 shall be the property of the Corporation

Removal of sewage and offensive matter

434. In cases not provided for by any notice issued under section 431, the Chairman shall, from time to time, with the sanction of the General Committee, prescribe—

(*a*) the hours within which sewage and offensive matter may be removed,

(*b*) the kind of cart or other receptacle in which sewage or offensive matter may be removed, and

(*c*) the route by which such carts or other receptacles shall be taken

Establishment for removal of sewage from privies and urinals

435. The Corporation shall maintain an establishment under the control of the Chairman for the removal of sewage from privies and urinals which are not connected with a sewer

Prohibition of—allowing rubbish or offensive matter to accumulate on premises for more than 24 hours,

436. (*1*) No person who is bound, by any notice issued under section 430 or section 431, to collect and deposit or remove rubbish and offensive matter accumulating on premises occupied by him, shall allow the same so to accumulate for more than twenty-four hours

(2) No person shall deposit any rubbish or offensive matter otherwise than as prescribed in a notice issued under section 130. Irregular depositing of rubbish or offensive matter,

(3) No person shall remove sewage or offensive matter otherwise than to a receptacle, depôt or place provided or appointed for the purpose under section 129, or otherwise than as prescribed under section 131. irregular removal of sewage or offensive matter,

(4) No person shall throw or place any rubbish, offensive matter or sewage in any place not provided or appointed for the purpose under section 129 or in any way contrary to any direction given under section 130. irregular placing of rubbish, offensive matter or sewage,

(5) No owner or occupier of any building or land shall allow any filthy matter to flow, soak, or be thrown therefrom or shall keep or suffer to be kept anything therein or thereupon so as to be a nuisance, or shall negligently suffer any privy-receptacle or other receptacle or place for the deposit of filthy matter or rubbish on his premises to be in such a state as to be offensive or injurious to health. allowing filthy matter to flow or soak from premises or create a nuisance

437. If in any case it is shown that rubbish, offensive matter or sewage has been thrown or placed in any place in contravention of sub-section (4) of section 436, from some building or land, it shall be presumed, until the contrary is proved, that the offence has been committed by the occupier of the said building or land. Presumption as to offender under section 436(4)

438. No *mehter* or other servant of the Corporation who is employed to remove or otherwise deal with sewage, offensive matter or rubbish shall without the permission of the Chairman, withdraw from his duties without giving written notice, not less than one month previously, of his intention so to withdraw. *Notice to be given by mehters* etc., before withdrawing from work

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CHAPTER XXIX

Inspection and Regulation of Premises

439. (1) The Chairman may inspect any building or other premises for the purpose of ascertaining the sanitary condition thereof. Power to inspect premises for sanitary purposes

(2) If a building (not being a students' hostel) is used as a public lodging-house, or is let out in rooms to one hundred or more lodgers, such inspection may be made at any time of the day or night.

440. If it appears to the Chairman necessary for sanitary reasons so to do, he may, by written notice, require the owner or occupier of any building so inspected, to cause the same or any portion thereof to be limewashed or otherwise cleansed, Power to require cleansing and limewashing of building

either externally or internally or both externally and internally

Securing, enclosing, cleansing or clearing of building or land neglected, filthy or a nuisance

441. If any building or land,—

(*a*) by reason of abandonment or disputed ownership or for any other reason remains untenanted and thereby becomes a resort of idle and disorderly persons or

(*b*) is in a filthy or unwholesome state, or

(*c*) is complained of by any two or more of the neighbours as a nuisance

the General Committee after due inquiry may give written notice to the owner if he be known and resident in Calcutta or to any person who is known or believed to claim to be the owner if such person be resident in Calcutta and shall also affix a copy of the said notice on the door of the building or on some conspicuous part of the land

requiring the said owner or the persons concerned, in the building or land whoever they may be to secure, enclose, clean or clear the same

Taking down repair or securing of building or fixture in ruinous state etc

442. (*1*) If any building or any thing affixed thereto be deemed by the Chairman to be in a ruinous state or likely to fall or to be in any way dangerous he shall immediately if it appears to him to be necessary so to do cause a proper hoard or fence to be put up for the protection of passengers, and shall then cause a written notice to be served on the owner if he be known and resident in Calcutta and also to be put on some conspicuous part of the building or served on the occupiers (if any) thereof requiring such owner or occupier forthwith to take down repair or secure such building or thing as the case may require

(*2*) The provisions of section 352 sub sections (*1*) and (*3*) shall apply in the case of buildings taken down or repaired under sub section (*1*)

Sale of materials of buildings taken down in pursuance of notice issued under section 441 or section 442

443. (*1*) If any building or any part of a building be taken down under section 537 in pursuance of a notice issued under section 441 or section 442 the Chairman may sell the materials and apply the proceeds of such sale in payment of the expenses incurred and shall on demand restore to the owner any surplus arising from such sale

(*2*) For compelling the payment of so much of the said expenses as may remain due after applying the sale proceeds as aforesaid the Chairman shall have the same remedies as are by this Act given to him for compelling the payment of the whole of the said expenses

Buildings unfit for human habitation

444. (*1*) If for any reason any building intended for or used as a dwelling place appears to the Chairman to be unfit for human habitation, he may apply to a Magistrate to prohibit

the further use of such building for such purpose; and the Magistrate, after such inquiry as he thinks fit to make, may, by written order, make a prohibition as aforesaid or may pass such other order as he may deem just and proper.

(2) When any such prohibition has been made, no owner or occupier of such building shall use, or suffer the same to be used, for human habitation until the Chairman certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction, or a Magistrate, by written order, withdraws the prohibition aforesaid.

Abatement of overcrowding in dwelling house or dwelling place

445. (*1*) If it appears to the Chairman that any dwelling-house, or any public building or hut which is used as a dwelling-place, or any room in any such house, public building or hut, is so overcrowded as to endanger the health of the inmates thereof, *he may apply to a Magistrate to abate such* overcrowding, and the Magistrate, after such inquiry as he thinks fit to make, may by written order, require the owner of the building or room, within a reasonable time, not exceeding four weeks, to be prescribed in the said order, to abate such overcrowding by reducing the number of lodgers, tenants, or other inmates of the building or room, or may pass such other order as he may deem just and proper.

(2) The General Committee may, by written order, declare what amount of superficial and cubic space shall be deemed, for the purposes of sub-section (*1*), to be necessary for each occupant of a building or room

(3) If the owner of any building or room referred to in sub-section (*1*) has sub-let the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building or room

(*4*) It shall be incumbent on every tenant, lodger, or other inmate of a building or room to vacate on being required by the owner so to do in pursuance of any requisition made under sub-section (*1*)

Further powers with reference to overcrowded buildings

446. (*1*) Whenever the General Committee consider—

(*a*) that any building is, by reason of its having no plinth or having a plinth of insufficient height, or by reason of the want of proper drainage or ventilation, or by reason of the impracticability of cleansing, attended with risk of disease to the occupiers thereof or to the inhabitants of the neighbourhood, or is for any reason likely to endanger the public health or safety, or

(*b*) that any block of buildings is, for any of the said reasons, or by reason of the manner in which the

buildings are crowded together, attended with such risk as aforesaid,

they may cause a written notice to be fixed to some conspicuous part of the building or block, requiring the owners or occupiers thereof, or, at the option of the Committee, the owners of the land occupied by such building or block, to execute such works or take such measures as the Committee may deem necessary for the prevention of such risk

(*2*) Where any building in respect of which a notice has been issued under sub-section (*1*) is demolished in pursuance of an order made by a Magistrate under section 450, the Corporation shall make reasonable compensation to the owner thereof

Filling up etc of unwholesome wells etc

447. (*1*) When any well, tank, or marshy ground or any waste or stagnant water, whether within any private enclosure or not, appears to the Chairman to be injurious to health or offensive to the neighbourhood, he may, by written notice, require—

(*a*) the occupier of the building or land to which such well pertains or

(*b*) the owner of such tank, ground or water,

to cleanse or fill up such well, tank or ground with suitable material or to de-water the same, or to drain off or remove such water

(*2*) If the Chairman, in exercise of the powers conferred by section 597 executes any work referred to in a notice issued under sub section (*1*) of this section and if the person liable to pay the expenses of such work fails to pay the same, the Chairman may—

(*i*) lease any part of the land used in connection with the said well, tank or water, or any part of the said ground, as the case may be or

(*ii*) retain possession of such land or tank, or the site of such tank or ground and utilise the same for public purposes

(*3*) If the said expenses be paid by an occupier of land, he may deduct the same from any rent due to the owner of the land

(*4*) An appeal shall lie to the General Committee from any notice issued or other action taken by the Chairman under this section, and their decision shall be final

Regulation of excavations

448. (*1*) The Corporation, at the instance of the General Committee, may, by a general order, or by an order to

affect such portion of Calcutta as may be specified therein, prohibit—

(*a*) the making of excavations for the purpose of taking earth therefrom, or of storing rubbish or offensive matter therein, and

(*b*) the digging of cesspools, tanks, wells or pits,

without the special permission of the Chairman.

(*2*) Every such order shall be published in the Calcutta Gazette.

(*3*) No person shall make any excavation as aforesaid, or dig any cesspool, tank, well or pit, in contravention of any such order.

(*4*) If any such excavation, cesspool, tank, well or pit is made after the publication of any such order and without the permission required thereby, the General Committee may, by written notice, require the owner and occupier of the land on which the same is made to fill it up with earth or other material approved of by them

(*5*) If default be made in complying with any such notice, the General Committee may cause the work to be executed, and half the expense thereby incurred shall be paid by the owner and half by the occupier of the land

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CHAPTER XXX

DEMOLITION, ALTERATION AND STOPPING OF WORK

449. If the General Committee are satisfied— Demolition or alteration of *building* work unlawfully commenced carried on or completed

(*1*) that the erection or re-erection of any building—

(*a*) has been commenced without obtaining the permission of the Chairman, or (where an appeal or reference has been made to the General Committee) in contravention of any orders passed by the General Committee, or

(*b*) is being carried on or has been completed otherwise than in accordance with the particulars on which such permission or orders was or were based, or

(*c*) is being carried on or has been completed in breach of any provision contained in this Act or in any rules or by-laws made hereunder, or of any direction or requisition lawfully given or made under this Act or such rules or by-laws, or

(*2*) that any alterations required by any notice issued under section 383 have not been duly made, or

buildings are crowded together, attended with such risk as aforesaid,

they may cause a written notice to be fixed to some conspicuous part of the building or block, requiring the owners or occupiers thereof, or, at the option of the Committee, the owners of the land occupied by such building or block, to execute such works or take such measures as the Committee may deem necessary for the prevention of such risk

(2) Where any building in respect of which a notice has been issued under sub-section (*1*) is demolished in pursuance of an order made by a Magistrate under section 450, the Corporation shall make reasonable compensation to the owner thereof

Filling up etc of unwholesome wells etc

447. (*1*) When any well, tank, or marshy ground or any waste or stagnant water, whether within any private enclosure or not, appears to the Chairman to be injurious to health or offensive to the neighbourhood, he may, by written notice, require—

(*a*) the occupier of the building or land to which such well pertains or

(*b*) the owner of such tank, ground or water,

to cleanse or fill up such well, tank or ground with suitable material or to de-water the same, or to drain off or remove such water

(2) If the Chairman, in exercise of the powers conferred by section 597, executes any work referred to in a notice issued under sub-section (*1*) of this section and if the person liable to pay the expenses of such work fails to pay the same, the Chairman may—

(*i*) lease any part of the land used in connection with the said well, tank or water, or any part of the said ground, as the case may be, or

(*ii*) retain possession of such land or tank, or the site of such tank or ground, and utilise the same for public purposes

(3) If the said expenses be paid by an occupier of land, he may deduct the same from any rent due to the owner of the land

(4) An appeal shall lie to the General Committee from any notice issued or other action taken by the Chairman under this section, and their decision shall be final

Regulation of excavations

448. (*1*) The Corporation at the instance of the General Committee, may, by a general order, or by an order to

(*6*) if any owners or occupiers neglect to execute any works or take any measures required by any notice affixed under section 116, sub-section (*1*), or

(*7*) if any privy be placed in contravention of rule 1 or sub-rule (*1*) of rule 2 of Schedule XVI, or

(*8*) if any person, after erecting a service privy authorized under the proviso to sub-rule (*1*) of rule 2 of Schedule XVI, fails to pay any sum required under that proviso,

the General Committee may apply to a Magistrate, and such Magistrate may make an order directing that the projection, fixture, additions, roof, wall, buildings or privy, as the case may be,—

(*a*) be demolished by the owner or altered by him to the satisfaction of the Committee, or

(*b*) be demolished or altered by the Chairman at the expense of the owner:

Provided that the Magistrate shall not make any such order without giving the owner and occupier full opportunity of adducing evidence and of being heard in defence.

451. (*1*) In any case in which the erection or re-erection of a building, or any other work referred to in section 449 has been unlawfully commenced or is being unlawfully carried on, the General Committee or the Chairman may, by written notice, require the person carrying on the work to stop the same, pending the decision of a Magistrate on an application to be made to him under that section

Power of General Committee or Chairman to stop progress of building work unlawfully commenced or carried on

(*2*) If any work be carried on upon any premises in contravention of a notice issued under sub-section (*1*), any person directing or carrying on such work may, under the orders of the Chairman, be removed from the premises by any police officer

452. When any person is liable to be directed to demolish work and to pay a fine under this Act, both those directions may be given at the discretion of the Magistrate

Demolition and fine cumulative

CHAPTER XXXI

KEEPING OF ANIMALS AND DISPOSAL OF CARCASSES

453. No person shall—

Prohibition as to keeping animals

(*a*) without the written permission of the Chairman, or otherwise than in conformity with the terms of

such permission, keep any swine in any part of Calcutta,

(*b*) keep any animal on his premises so as to be a nuisance or dangerous, or

(*c*) feed any animal, or suffer or permit any animal to be fed or to feed, with or upon sewage or offensive matter.

Destruction of stray swine.

454. Any swine found straying may be forthwith destroyed, and the carcasses thereof disposed of, as the Chairman may direct, and no claim shall lie for compensation for any swine so destroyed.

Power to prevent keeping of milch cattle in particular areas for supplying milk by sale.

455. (*1*) The Corporation, at the instance of the General Committee, may give public notice of their intention to declare—

(*a*) that in any area specified in the notice no person shall keep milch-cattle for the purpose of supplying milk for sale, and

(*b*) that all milch cattle kept in such area for such purpose must be removed from such area within a period, not being less than three weeks nor more than six months, to be specified in such notice.

(*2*) No objections to any such declaration shall be received after a period of one month from the publication of such notice.

(*3*) The General Committee shall consider all objections received within the said period, and shall then report to the Corporation, who may thereupon make a declaration in accordance with the notice published under sub-section (*1*).

(*4*) Every such declaration shall be published in the Calcutta Gazette, and shall take effect from the date of such publication.

(*5*) No person shall in any area specified in any such declaration keep milch-cattle for the purpose of supplying milk for sale.

(*6*) All milch-cattle kept in any such area for the said purpose must be removed therefrom within the period specified in that behalf in such declaration.

General powers of control over stables cattle sheds and cow houses.

456. (*1*) All stables, cattle-sheds and cow-houses shall be under the survey and control of the General Committee as regards their site, construction, materials and dimensions.

(*2*) The General Committee may, by written notice, require that any stable, cattle-shed or cow-house be altered, paved, repaired or kept in such a state as to admit of its being

sufficiently cleansed or be supplied with water or be connected with a sewer or be demolished.

(3) Every such notice shall be addressed to the owner of the building or land to which the stable, cattle-shed or cow-house belongs or for the use of the occupants of which the same was constructed or is continued.

(4) The expense of executing any work in pursuance of any such notice shall be borne by the said owner.

457. If any stable, cattle-shed or cow-house is not constructed or maintained in the manner prescribed by or under this Act, the General Committee may, by written notice, direct that the same shall no longer be used as a stable, cattle-shed or cow-house. Power to direct discontinuance of use of building as a stable, cattle-shed or cow-house.

458. (1) The occupier of any premises in or upon which any animal dies or upon which the carcass of any animal is found, and the person having the charge of any animal which dies in a street or in any open place, shall, within three hours after the death of the animal, or, if the death occurs at night, within three hours after sunrise, either— Removal of carcasses of animals.

(a) remove the carcass or cause it to be removed to some depot or place provided or appointed by the Chairman under section 129 for the temporary deposit or final disposal of carcasses, or

(b) report the death of the animal or cause the same to be reported to the proper officer of the Corporation with a view to the removal of the carcass.

(2) When any carcass is removed in pursuance of clause (b) of sub-section (1), a fee for the removal of such amount as may be fixed by the Corporation shall be paid by the owner of the animal, or, if the owner is not known, by the occupier of the premises in or upon which, or by the person in whose charge, the animal died.

(3) No person shall remove or cause to be removed the carcass of any animal—

(i) otherwise than to a depot or place provided or appointed for the purpose under section 129, or

(ii) in such a manner as to create a nuisance.

(4) The word "animal" in this section includes an elephant, camel, horse, mule, donkey, horned beast, sheep, pig or other large animal.

CHAPTER XXXII.

REGULATION OF PUBLIC BATHING AND WASHING.

Setting apart of places for public bathing, etc

459. The Chairman may from time to time set apart suitable places vesting in the Corporation for use by the public for bathing, for washing animals, or for drying clothes, and may, from time to time, by public notice, prohibit the use by the public for any of the said purposes of any place not vesting in the Corporation.

Regulation of use of public bathing places, etc

460. (*1*) The Chairman may, by public notice, regulate the use by the public of—

(*a*) any place vesting in the Corporation which is set apart by him for any purpose under section 459, and

(*b*) any place not vesting in the Corporation which is used with his acquiescence for any purpose mentioned in that section.

(*2*) In the case of any place set apart or assigned for bathing, the Chairman may, in the said notice, prescribe the places of bathing for persons of each sex.

Prohibition of bathing, etc, contrary to order or notice

461. (*1*) Except as permitted by an order or notice issued under section 459 or section 460, no person shall—

(*a*) bathe in or near any tank, reservoir, fountain, cistern, duct, stand-post, stream, well or other source of water-supply, or in any place vesting in the Corporation;

(*b*) wash or cause to be washed, in or near any such source or place, any animal, clothing or other article;

(*c*) throw, put or cause to enter into the water in any such source or place any animal or other thing;

(*d*) cause or suffer to drain into or upon any such source or place, or to be brought thereinto or thereupon, anything, or do anything, whereby the water may be in any degree fouled or corrupted; or

(*e*) dry clothes in or upon any such place.

(*2*) No person shall—

(*i*) in contravention of any prohibition made by the Chairman under section 459, use, for any purpose mentioned in that section, any place not vesting in the Corporation, or

of 1899.]

(Part V.—The Public Health, Safety and Convenience.—Chapter XXXII.—Regulation of Public Bathing and Washing.—Chapter XXXIII.—Regulation of Factories, Trades, etc.—Secs. 462-464.)

(ii) contravene any notice issued by the Chairman under section 160 for regulating the use of any place for any such purpose.

462. No person shall—

Prohibition of fouling water by certain acts.

(a) steep in any tank, reservoir, stream, well or ditch, any animal or any vegetable or mineral matter which is likely to render the water thereof offensive or dangerous to health, or

(b) while suffering from any contagious or loathsome disease, bathe on, in or near any bathing platform, tank, reservoir, fountain, cistern, duct, stand-post, stream or well.

CHAPTER XXXIII

REGULATION OF FACTORIES[1], TRADES, ETC.

Factory, etc., not to be newly established without permission of the Chairman.

463. (1) No person shall, without the previous written permission of the Chairman, newly establish in any premises any factory, workshop or workplace in which it is intended to employ steam, water or other mechanical power.

(2) The Chairman may refuse to give such permission, if he is of opinion that the establishment of such factory, workshop or workplace in the proposed position would be objectionable by reason of the density of the population in the neighbourhood thereof, or would be a nuisance to the inhabitants of the neighbourhood.

Sanitary regulation of factories, bakehouses, etc., and prevention of danger from machinery.

464. (1) Whenever it appears to the Chairman that any factory, bakehouse, workshop or workplace or any other building or place is not kept in a cleanly state,

or is not ventilated in such a manner as to render harmless, as far as practicable, any gas, vapour, dust or other impurity generated in the course of the work carried on therein which is a nuisance,

or is so overcrowded while work is carried on as to be dangerous or injurious to the health of the persons employed therein,

or that any engine, mill-gearing, hoist or other machinery therein is so fixed or so insecurely fenced as to be dangerous to life or limb,

the Chairman may, by written notice, require the owner of such factory, bakehouse, workshop, workplace or other building or place to take such order, as the Chairman considers necessary for putting and maintaining the same in a cleanly

[1] For the law regulating labour in factories in British India see the India Factories Act, 1911 (12 of 1911) printed in the General Acts Vol VII (1909 13) p 178

(Part V—The Public Health Safety and Convenience—Chapter XXVIII—Regulation of Factories Trades etc—Secs 465 466)

state or for ventilating the same or for preventing the same from being overcrowded or for preventing danger to life or limb from any engine mill gearing hoist or other machinery therein

(2) Nothing in sub section (1) shall affect Bengal Act 3 of 1879[1] *(an Act to provide for the periodical inspection of steam boilers and prime movers attached thereto in the town and suburbs of Calcutta and in Howrah)* and nothing in this section which relates to the fixing or fencing of any engine mill gearing hoist or other machinery shall apply to any factory to which the Indian Factories Act 1881,[2] is applicable

Use of steam whistle or steam trumpet

465. (1) No person shall without the written permission of the Chairman use or employ in any factory or any other place any steam whistle or steam trumpet for the purpose of summoning or dismissing workmen or persons employed

(2) The Chairman may at any time on giving one month's written notice revoke any permission given under sub section (1)

Provided that no notice need be given if the Chairman suspends or revokes any such permission for any reason specified in section 586 sub section (3)

Certain trades not to be carried on without a license

466. (1) No person shall use or permit to be used any premises for any of the purposes herein below referred to or mentioned without or otherwise than in conformity with the terms of a license granted by the Chairman in this behalf that is to say —

(a) any of the purposes specified in Schedule XVIII

(b) any purpose which is in the opinion of the Chairman dangerous to life health or property, or likely to create a nuisance

(c) keeping horses cattle or other four footed animals for sale or hire or for sale of the produce thereof or

(d) storing for other than domestic use or selling timber firewood charcoal coal coke ashes hay, grass straw or any other combustible thing

(2) Every person to whom a license is granted by the Chairman to use any premises for any of the purposes referred to or mentioned in sub-section (1) shall keep affixed in a conspicuous part of the said premises a board upon which shall be legibly

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1 ... Code ... 1911) ... general ... Act ... Ed 1900 ...

written, in English and also in Bengali or Urdu, the following particulars, namely —

(i) the licensee's name;

(ii) the purpose for which and the limitations and conditions subject to which the license is granted; and

(iii) any other details relating to the license or the terms thereof which the Chairman from time to time thinks fit to require

(3) When any premises in the occupation of a lessee are used for any of the purposes referred to or mentioned in sub-section (1) the lessor shall be presumed unless the contrary is proved, to have permitted their use for such purpose.

(4) Nothing in the foregoing sub-sections shall apply to mills for spinning or weaving cotton wool, silk or jute

Fees for such licenses

[1]**467.** The Corporation shall fix a scale of fees to be paid in respect of premises licensed under section 466

Provided that no fee shall exceed five hundred rupees, or be less than the amount otherwise payable for a trade or profession license under Schedule II

Appeal to General Committee

468. (1) An appeal shall lie to the General Committee from—

(a) any refusal by the Chairman to grant a written permission under section 463 or a license under section 466, and

(b) any notice issued by the Chairman under section 464

(2) The decision of the General Committee on any such appeal shall be final

(3) When an appeal has been preferred from any notice issued under section 464, the notice must pending the decision of the appeal be obeyed

Power to prevent use of premises in particular areas for purposes referred to or mentioned in section 466

469. (1) The Corporation at the instance of the General Committee, may give public notice of their intention to declare that in any area specified in the notice no person shall use any premises for any of the purposes referred to or mentioned in section 466

(2) No objections to any such declaration shall be received after a period of one month from the publication of such notice

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(3) The General Committee shall consider all objections received within the said period, and shall then report to the Corporation, who may thereupon make a declaration[1] in accordance with the notice published under sub-section (1)

(4) Every such declaration shall be published in the Calcutta Gazette and shall take effect from the date of such publication

(5) No person shall in any area specified in any such declaration use any premises for any of the purposes referred to or mentioned in section 466

Power to direct discontinuance of use of premises for certain trades near dwelling houses

470. (1) If it be shown to the satisfaction of the General Committee that the use of any premises situated near dwelling-houses for any of the purposes referred to or mentioned in section 466 (except as cow-houses or stables) is injurious to the health or material comfort of the occupants of such houses, or

if any premises situated within fifty feet of a dwelling-house are used for any of the said purposes (expect as aforesaid), or,

if the owners of any buildings situated within one hundred feet of any premises used for any of the said purposes (except as aforesaid) make an application to the General Committee in this behalf and deposit with the Corporation the sum required for purchasing or acquiring the said premises, as estimated by the Chairman, and also undertake to pay any further expenses to which the Corporation may be put,

the General Committee may, by written notice, require the occupier of such premises to discontinue such use within one month after the service of the notice

(2) When the use of any premises for any of the purposes aforesaid has been discontinued in pursuance of such a notice, no compensation shall be payable for loss arising from such discontinuance, but the Corporation shall be bound to purchase both the land and the buildings from the owner; and, if the Corporation are unable to agree with the owner as to the price to be paid the land and buildings may be acquired under the Land Acquisition Act, 1894[2]

Power to direct discontinuance of use of premises for particular purpose when kept so as to be a nuisance

471. Whenever a Magistrate imposes a fine on any person under section 574 for using or permitting the use of any premises for any purpose in contravention of sub-section (1) of section 466, he may if it is proved to his satisfaction that such premises are kept in such a state as to be a nuisance, direct that they shall no longer be used for the said purpose.

Prohibition of fouling of water in carrying on trade or manufacture

472. (1) No person engaged in any trade or manufacture specified in Schedule XVIII shall—

(a) wilfully cause or suffer to flow or be brought into any tank, reservoir, cistern, well, duct or other place for

[1] For a declaration issued under s 469(3) see Calcutta Gazette 1914 Pt IB p 104.
[2] Printed in the General Acts, 18[?] 97, Ed 1903 p 363

water belonging to the Corporation, or into any drain or pipe communicating therewith, any washing or other substance produced in the course of such trade or manufacture; or

(*b*) wilfully do any act connected with any such trade or manufacture whereby the water in any such tank, reservoir, cistern, well duct or other place for water is fouled or corrupted

(*2*) The Chairman may, after giving not less than twenty-four hours' previous notice in writing to the owner or to the person who has the management or control of any works, pipes or conduits connected with any such manufacture or trade as aforesaid, lay open and examine the said works, pipes or conduits

(*3*) If, upon such examination, it appears that sub-section (*1*) has been contravened by reason of anything contained in or proceeding from the said works, pipes or conduits, the expenses of such laying open and examination, and of any measure which the Chairman, in his discretion, may require to be adopted for the discontinuance of the cause of such contravention, shall be paid by the owner of the said works, pipes or conduits, or by the person who has the management or control thereof, or through whose neglect or fault the said sub-section has been contravened

(*4*) But if it appears that there has been no contravention of the said sub-section, the said expenses, and compensation for any damage occasioned by the said laying open and examination, shall be paid by the Chairman

Inspection of premises used for manufactures, etc

473. (*1*) The Chairman may, at any time by day or by night, without notice enter into or upon—

(*a*) any premises used for any of the purposes referred to or mentioned in section 466,

(*b*) any premises in which a furnace is employed for the purpose of any trade or manufacture, or

(*c*) any bakehouse,

in order to satisfy himself as to whether any provision of this Act or any by-law made under section 559 at the time in force, or any condition of any license granted under this Act, is being contravened, or as to whether any nuisance is being created upon such premises

(*2*) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary [illegible]

Provided that force sha[illegible] n entry, unless when there is reas[illegible] is being

committed against some provision of this Act or some by-law made under section 559

Public wash houses

474. The Corporation may construct or provide and maintain public wash houses for the washing of clothes

Provision of other places for use by washermen

475 If a sufficient number of public wash houses be not maintained under section 474 the Chairman shall provide suitable places for the exercise by washermen of their calling and may require payment of such fees for the use of any such place as may from time to time be determined by the Chairman with the approval of the General Committee

Prohibition of washing of clothes by washermen at other place

476 (*1*) The Chairman may by public notice prohibit the washing of clothes by washermen in the exercise of their calling except at public wash houses maintained under section 474 or places provided under section 475 or such other place as he may appoint for the purpose

(2) When any such prohibition has been made no person who is by calling a washerman shall wash clothes at any place other than a public wash house maintained under section 474 or a place provided under section 475 or a place appointed under sub section (*1*) of this section except for such person himself or for the owner or occupier of such place

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CHAPTER XXXIV

MARKETS BAZARS AND SLAUGHTER PLACES

Provision and maintenance of municipal markets and municipal slaughter houses

477. (*1*) The Chairman when authorized by the Corporation in this behalf may—

(*a*) construct purchase or take on lease any building or land for the purpose of establishing a new municipal market or a new municipal slaughter house or of extending or improving any existing municipal market or municipal slaughter house and

(*b*) from time to time build and maintain such municipal markets and municipal slaughter houses and such stalls shops sheds pens and other buildings or conveniences for the use of persons carrying on trade or business in or frequenting such municipal markets or municipal slaughter houses and provide and maintain in such municipal markets such buildings places machines weights scales and measures for weighing and measuring goods sold therein as he thinks fit

of 1899.]

(Part V.—The Public Health, Safety and Convenience—Chapter XXXIV.—Markets, Bazars and Slaughter-places.—Secs. 478-481.)

(2) Municipal slaughter-houses may be situated within or, with the sanction of the Local Government, without Calcutta.

Power to close municipal markets and municipal slaughter-houses.

478. The Chairman may, with the sanction of the Corporation, at any time close any municipal market or municipal slaughter-house; and the premises occupied for any market or slaughter-house so closed may be disposed of as the property of the Corporation.

Prohibition of sale in municipal market without license.

479. (*1*) No person shall, without a license from the Chairman, sell or expose for sale any animal or article in any municipal market.

(*2*) Any person contravening sub-section (*1*) may be summarily removed by the Chairman or by any municipal officer or servant.

Opening of new private markets.

480. (*1*) The Corporation shall from time to time determine whether the establishment of new private markets shall be permitted in Calcutta or in any specified portion thereof.

(*2*) No person shall establish a new private market for the sale of, or for the purpose of exposing for sale, animals intended for human food, or any other article of human food, except with the sanction of the Corporation.

(*3*) When the establishment of a new private market has been so sanctioned, the Chairman shall cause a notice of such sanction to be affixed in the English, Bengali and Urdu languages on some conspicuous spot on or near the building or place where such market is to be held.

Licensing of private markets and slaughter-houses.

481. (*1*) No person shall, without or otherwise than in conformity with the terms of a license granted by the Chairman in this behalf,—

(*a*) keep open a private market,

(*b*) use any place in Calcutta as a slaughter-house, or for the slaughtering of any animal intended for human food, or

(*c*) use any place without Calcutta, whether as a slaughter-house or otherwise, for the slaughtering of any animal intended for human food to be consumed in Calcutta.

Provided as follows:—

(*i*) the Chairman shall not refuse, suspend or cancel any license for keeping open a private market—

for any cause other than the failure of the owner thereof to comply with some provision of this Act, or with some regulation made under section 488, or with

some by-law made under section 559, at the time in force, or

without the approval of the Corporation.

(ii) nothing in the foregoing provisions of this section shall be deemed to restrict the slaughter of any animal in any place on the occasion of any festival or ceremony;

(iii) nothing in the foregoing provisions of this section shall be deemed to prevent the Chairman, acting with the sanction of the Corporation, from setting apart places for the sacrifice of animals in accordance with religious custom, and for the sale of the flesh thereof;

(iv) nothing in the foregoing provisions of this section shall apply to any market which has been registered under section 6 of the Calcutta Markets Act, 1871[1]. Be of

(2) There shall be paid for every license granted under sub-section (1) and in respect of every place set apart under proviso (iii) to that sub-section such fee as may be prescribed by the Corporation.

(3) If any private market or any place set apart under proviso (iii) to sub-section (1) be closed for more than half of any year for which a fee has been paid under sub-section (2), the Chairman may refund the whole or any portion of the fee so paid for that year.

(4) When the Chairman has refused, suspended or cancelled any license to keep open a private market, he shall cause a notice of his having so done to be affixed in the English, Bengali and Urdu languages on some conspicuous spot on or near the building or place where such market has been held.

Prohibition of unauthorized use of place as a private market

482. No person shall wilfully or negligently permit any place (not being a market which has been registered under section 6 of the Calcutta Markets Act, 1871)[1], to be used as a private market unless a license has been granted therefor under section 481 and is at the time in force. Ben of 1

Power of Magistrate to close unauthorized private market

483. Whenever a Magistrate imposes a fine on any person under section 574 for keeping open a private market or permitting any place to be used as a private market in contravention of section 481, sub-section (1), or section 482, he shall, on the application of the Chairman, but not otherwise, direct that such market be closed and appoint persons, or take other steps, to prevent the place being used as a market.

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[1] Ben Act 8 of 1871 was repealed by the Calcutta Municipal Consolidation Act, 1876 (Ben Act 4 of 1876)

of 1899.]

(Part V.—The Public Health, Safety and Convenience—Chapter XXXIV.—Markets, Bazars and Slaughter-places.—Secs. 484-487.)

484. No person shall sell or expose for sale any meat, fish, fruit or vegetables in any place in respect of which a direction has been given by a Magistrate under section 483. Prohibition of sale in places so closed

485. *(1)* The Chairman may, by written notice, require the owner, farmer or occupier of any private market, *bazar*, private slaughter-house or place set apart under proviso *(iii)* to section 481— Paving and draining of private markets, *bazars*, private slaughter houses and places set apart for sacrifice of animals

(*a*) to cause the whole or any portion of the floor of the market-building, market-place *bazar*, slaughter-house or place set apart as aforesaid to be paved with dressed stone or other suitable material, and

(*b*) to cause such drains to be made in or from the market-building, market-place, *bazar*, slaughter-house or place set apart as aforesaid, of such material, size and description, at such level and with such outfall as to the Chairman may appear necessary.

(2) An appeal shall lie to the General Committee from any notice issued by the Chairman under sub-section (*1*), and their decision shall be final.

486. (*1*) The Chairman, with the sanction of the Corporation, may, by written notice— Power to fix limits of private market or *bazar*

(*a*) define or determine the limits of any private market or any *bazar*, or

(*b*) declare what portions of any private market or any *bazar* shall be made part of the existing approaches, roads, paths and ways to or in such market or *bazar*, for the convenience of persons resorting to the market or *bazar*.

(2) Every such notice shall be affixed in the English, Bengali and Urdu languages on some conspicuous spot in or near the market or *bazar* to which it relates.

487. The Chairman, with the sanction of the Corporation, may, by written notice, require the owner or lessee of any private market or any *bazar*— Power to require setting out, etc., of approaches, roads, paths and ways to or in private market or *bazar*

(*a*) to execute all works and take all measures which the Chairman may consider necessary for setting out, clearing or widening approaches, roads, paths and ways to or in such market or *bazar* in pursuance of any declaration made under section 486, clause (*b*), or

(*b*) to maintain in proper order the approaches, roads, paths and ways to or in such market or *bazar*, or,

(Part V.—The Public Health, Safety and Convenience—Chapter XXXIV.—Markets, Bazars and Slaughter-places.—Secs. 488, 489).

(c) to alter, to the satisfaction of the Chairman, any of the said approaches, roads, paths or ways.

Power of Chairman to make regulations for markets, *bazars*, slaughter-houses and places set apart for sacrifice of animals.

488. The Chairman may, with the approval of the Corporation, make regulations,[1] not inconsistent with any provision of this Act or of any by-law made under section 559 at the time in force,—

(*a*) for preventing nuisances or obstruction in any market-building, market-place, *bazar* or slaughter-house, or in the approaches thereto, or in any of the roads, paths or ways in any market or *bazar*;

(*b*) fixing the days and the hours on and during which any market, *bazar* or slaughter-house may be held or kept open for use;

(*c*) for keeping every market-building, market-place, *bazar*, slaughter-house and place set apart under proviso (iii) to section 481 in a cleanly and proper state, and for removing filth and refuse therefrom;

(*d*) requiring that any market-building, market-place, *bazar*, slaughter-house or place set apart as aforesaid be properly ventilated and be provided with a sufficient supply of water; and

(*e*) requiring that, in market-buildings, market-places and *bazars*, passages be provided between the stalls, of sufficient width for the convenient use of the public.

Levy of charges in municipal markets and municipal slaughter-houses.

489. The Chairman may—

(*a*) charge for the occupation or use of any stall, shop, standing, shed or pen in a municipal market or municipal slaughter-house, and for the right to expose goods for sale in a municipal market, and for weighing and measuring goods sold in any municipal market, and for the right to slaughter animals in any municipal slaughter-house, such stallages, rents and fees as may from time to time be fixed by him with the approval of the General Committee in this behalf; or

(*b*) with the approval of the General Committee, farm the stallages, rents and fees leviable as aforesaid, or any portion thereof, for any period not exceeding one year at a time; or

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[1] For a list of regulations made under section 488, see the Bengal Local Statutory Rules and Orders, 191[illegible], Vol. I, Pt. VI.

(*c*) put up to public auction, or, with the approval of the General Committee, dispose of by private sale, the privilege of occupying or using any stall, shop, standing, shed or pen in a municipal market or municipal slaughter-house, for such period and on such conditions as he may think fit.

Recovery of such charges

490. All stallages, rents and fees charged under section 189 shall be recoverable in the manner provided by this Act for the recovery of the consolidated rate

Regulations and table of charges to be posted up in markets and slaughter houses

491. (*1*) A printed copy of the regulations and of the table of stallages, rents and fees, if any, in force in any market or slaughter-house under sections 188 and 189, in the English, Bengali and Urdu languages, shall be affixed on some conspicuous spot in the market-building, market-place or slaughter-house

(*2*) No person shall without lawful authority destroy, pull down, injure or deface any copy of any regulation or table so affixed.

Power to expel person contravening by laws or regulations

492. The Chairman may expel from any municipal market or municipal slaughter-house any person who or whose servant has been convicted of contravening any regulation made under section 188 or any by-law made under section 559 at the time in force in such market or slaughter-house,

and may prevent such person, by himself or his servants, from further carrying on any trade or business in such market or slaughter-house or occupying any stall shop, standing, shed, pen or other place therein,

and may determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place.

CHAPTER XXXV

FOOD AND DRUGS.

Sale of Articles of Food and Drink generally

Licensing of sale of meat, etc, outside market

493. (*1*) No person shall, without a license from the Chairman, sell or expose for sale any four-footed animal or any meat or fish intended for human food, in any place other than a municipal or private market

(*2*) Nothing in sub section (*1*) shall apply—

(*a*) to meat or fish sold in any hotel or eating-house the keeper of which holds a license granted under Chapter XIV and for the time being in force, or

(b) to fresh fish sold from, or exposed for sale on, a vessel in which it has been brought direct to Calcutta after being caught at sea or in the river

Licensing of butchers and sellers of meat

494. No person shall, without or otherwise than in conformity with the terms of a license granted by the Chairman in this behalf,—

(a) carry on within Calcutta, or at any municipal slaughter-house, the trade of a butcher, or

(b) use any place in Calcutta for the sale of the flesh of any animal intended for human food, or any place outside Calcutta for the sale of such flesh for consumption in Calcutta

Prohibition of sale or manufacture of articles of human food or drink not of the proper nature substance or quality

495. (1) No person shall sell to the prejudice of the purchaser any article of human food or drink which is not of the nature, substance or quality of the article demanded by such purchaser, and no person shall manufacture for sale any article of human food or drink which is not of the nature, substance or quality which it purports to be

Provided that an offence shall not be deemed to be committed under this section in the following cases, that is to say —

(a) where any matter or ingredient not injurious to health has been added to any article of food or drink because the same is required for the production or preparation thereof, as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the article or conceal the inferior quality thereof, or

(b) where any article of food or drink is unavoidably mixed with some extraneous matter in the process of collection or preparation

(2) In any prosecution under this section it shall be no defence to allege that the vendor or manufacturer was ignorant of the nature, substance or quality of the article sold or manufactured by him, or that the purchaser, having bought only for analysis, was not prejudiced by the sale

(3) In a prosecution under this section the Court may presume that any article of food or drink found in the possession of a person who is in the habit of manufacturing like articles has been manufactured for sale.

(4) No proceedings shall be instituted under this section without the written order or consent of the Chairman

(Part V.—The Public Health, Safety and Convenience.— Chapter XXXV.—Food and Drugs —Secs. 496-498.)

496. No person shall expose or hawk about for sale any animal, carcass, meat, poultry, game, flesh, fish, fruit, vegetable, corn, bread, flour, milk, *ghee*, butter or other article intended for human food which is diseased, unsound, unwholesome or unfit for human food. Prohibition of sale of diseased or unwholesome animals or articles intended for human food

Sale of Drugs.

497. (*1*) No shop or place shall be kept for the retail sale of drugs not being also articles of ordinary domestic consumption, unless the same has been registered in the municipal office within two months after the commencement of this Act, or, if the shop or place was established after the commencement of this Act, then within two months from the date of its establishment. Registration of shops and places for retail sale of drugs

(*2*) The Chairman may in his discretion refuse to permit the registration of any such shop or place

(*3*) If any person is dissatisfied with such refusal he may appeal to the General Committee, whose decision shall be final.

(*4*) The Chairman shall, upon registration, grant the keeper of such shop or place a license which he shall be bound to display in some conspicuous part of his premises

498. The Local Government may make rules[1]— Power to make rules as to compounders

(*a*) prescribing an educational course for candidates for compounders' certificates,

(*b*) prescribing a fee to be paid by persons seeking admission to a Government Medical School for the purpose of undergoing such educational course,

(*c*) regulating the public examination of candidates for compounders' certificates, and prescribing the fee to be paid and the conditions to be observed by persons seeking admission to any such examination,

(*d*) regulating the grant of compounders' certificates to h examination,

(*e*) of certificates so granted,

(*f*) having such qualifications as may be recognized in the rules to compound, mix, prepare, dispense or sell drugs without obtaining such a certificate, and

(*g*) authorizing the cancellation of any certificate granted, or the withdrawal of any permission given, under the said rules to any person who is proved in the course of a judicial trial to have made a serious mistake, through ignorance or carelessness, in the compounding, mixing, preparation, dispensing or selling of drugs

[1] For a list of rules made under section 498 *see* the Bengal Local Statutory Rules and Orders 1913 Vol I Pt VI and for a revised set of rules for the grant of certificates to compounders *see* Calcutta Gazette, 1913 Pt I p 1087 and *ibid* 1914 Pt I, p 372

Prohibitions in respect of compounding of drugs

499. (*1*) No person shall compound, mix, prepare, dispense or sell any drug in any shop or place registered under section 497 unless he has a certificate or permission granted under rules made under section 498 and then in force

(*2*) No owner, occupier or keeper of any shop or place registered under section 497 shall employ in such shop or place any person contravening sub section (*1*)

(*3*) If any person contravenes sub-section (*2*), the Magistrate by whom he is tried may cancel the license granted to him under section 497, sub-section (*4*)

Saving as to practitioners of indigenous medicines

500. Nothing in section 497 section 498 or section 499 shall apply to the sale of drugs used by practitioners of indigenous medicines, when such drugs are not sold in a shop or place where medicines are dispensed upon prescription

Inspection and seizure of food and drugs

Power of Chairman to enter places where unlawful slaughter of animals or sale of flesh is suspected

501. (*1*) If the Chairman has reason to believe that any animal intended for human food is being slaughtered, or that the flesh of any such animal is being sold or exposed for sale, in any place or manner not duly authorized under this Act, he may at any time by day or by night, without notice, enter such place for the purpose of satisfying himself as to whether any provision of this Act or of any by-law or regulation made under this Act at the time in force is being contravened therein

(*2*) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry

Chairman to provide for inspection of articles exposed for sale for human food or medicine

502. It shall be the duty of the Chairman to make provision for the constant and vigilant inspection of animals, carcasses, meat poultry game flesh, fish, fruit, vegetables, corn, bread, flour milk *ghee* butter oil and any other article exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale and intended for human food or for medicine, the proof that the same was not exposed or hawked about or deposited or brought for any such purpose or was not intended for human food or for medicine resting with the party charged

Power to seize articles etc which are unwholesome etc

503. (*1*) The Chairman may, at all reasonable times, inspect and examine any such animal or article as aforesaid and any utensil or vessel used for preparing, manufacturing or containing any such article

(*2*) If any such animal appears to the Chairman to be diseased or if any such article appears to him to be diseased, unsound, unwholesome or unfit for human food or for medicine, as the case may be, or to be adulterated or to be not what it is represented to be, or if any such utensil or vessel is of such

kind or in such state as to render any article prepared manufactured or contained therein unwholesome or unfit for human food or for medicine, as the case may be

he may seize and carry away such animal article utensil or vessel in order that the same may be dealt with as hereinafter provided

(3) Meat subjected to the process of blowing shall be deemed to be unfit for human food

504. (*1*) When any article of human food is seized under section 503 it may, with the consent of the owner or the person in whose possession it was found be forthwith destroyed in such manner as to prevent its being used for human food or again exposed for sale or — Destruction of articles seized under section 503

if such consent be not obtained then if any such article is of a perishable nature and is in the opinion of the Chairman the Health Officer an Assistant Health Officer or any Commissioner diseased unsound unwholesome or unfit for human food it may be destroyed as aforesaid

(*2*) The expenses incurred in destroying any article in pursuance of sub section (*1*) shall be paid by the person in whose possession such article was at the time of its seizure

505. (*1*) Every animal article utensil and vessel seized under section 503 which is not destroyed in pursuance of section 504 shall forthwith be taken before a Magistrate — Taking before Magistrate animals and articles seized under section 503

(*2*) If it appears to the Magistrate that any such animal is diseased or that any such article is unsound unwholesome or unfit for human food or for medicine as the case may be or is adulterated or is not what it was represented to be or that any such utensil or vessel is of such kind or in such state as aforesaid he shall cause the same—

(*a*) to be forfeited to the Corporation or

(*b*) to be destroyed at the charge of the person in whose possession it was at the time of its seizure in such manner as to prevent the same being again exposed or hawked about for sale or used for human food or for medicine or for the preparation or manufacture of or for containing any such article as aforesaid

(*3*) If it appears to the Magistrate that any such medicine not unwholesome or unfit for medicine or is not adulterated or is what it was represented to be the person from whose shop or place it was taken shall be entitled to have it restored to him and it shall be in the discretion of the Magistrate to award him such compensation not exceeding the actual loss which has been sustained as the Magistrate may think proper

(Part V—The Public Health, Safety and Convenience—Chapter XXXV—Food and Drugs—Chapter XXXVI—Weights and Measures—Secs 506-510)

Restoration to owner of drugs not taken before a Magistrate

506. If any drug seized under section 503 is not taken before a Magistrate, it shall be restored to the person from whose shop or place it was taken, and such person shall be entitled to compensation for any actual loss which he may have sustained by the removal of the drug

Compulsory sale to Chairman for purpose of analysis

507. (*1*) If the Chairman requires the sale to him of any article of food exposed to sale, and tenders the price for a quantity not more than is reasonably requisite for division and disposal under sub sections (*2*) and (*3*), the person exposing the same for sale shall be bound to sell such quantity

(*2*) When the sale is completed, the Chairman shall forthwith notify to the seller or his agent selling the article his intention to have the same analysed, and shall offer to divide the article into three parts, to be then and there separated, and each part to be marked and sealed or fastened up in any manner which its nature will permit

(*3*) If such offer be accepted the Chairman shall proceed accordingly and shall deliver one of the said parts to the seller or his agent, shall retain another for future comparison, and may send the third to an analyst

Food and drugs directed to be destroyed etc deemed to be property of Corporation

508. When any authority directs, in exercise of any powers conferred by this Chapter, the destruction of any article of food or any drug, or the disposal of the same so as to prevent its being used as food or medicine, the same shall thereupon be deemed to be the property of the Corporation

CHAPTER XXXVI

WEIGHTS AND MEASURES [1]

Provision and custody of standards of local weight and measure

509. The Chairman shall from time to time provide such local standards of weight and measure as he deems requisite for the purpose of the verification of weights and measures in use in Calcutta, and shall make such arrangements as he thinks fit for the safe keeping of the said standards

Verification of weights and measures by such standards

510. (*1*) The Chairman shall provide from time to time proper means for verifying weights and measures not less than once in every year by comparison with the said standards, and for stamping the weights and measures so verified

(*2*) The Chairman shall from time to time fix the times and places at which some municipal officer, appointed by him in

[1] As to weights and measures see the Indian Weights and Measures of Capacity Act 1871 (31 of 1871) in the General Acts 1868 78, Ed 19 9 p 188

this behalf, shall attend for the purpose of the verification of weights and measures as aforesaid.

(3) The municipal officer so appointed shall attend, with the local standards in his custody, at each time and place so fixed, and shall examine every weight or measure which is of the same denomination as one of such standards and is brought to him for the purpose of verification and shall compare the same with that standard and if he finds the same correct shall stamp it with a stamp of verification in such manner as best to prevent fraud.

(4) The said municipal officer shall enter in a book kept by him minutes of every such verification and shall give, if required, a certificate under his hand of every such stamping.

511. There shall be payable to the Corporation in respect of the verification and stamping of weights and measures by a municipal officer as aforesaid such fees as the Chairman may from time to time fix in this behalf. Fees for comparison and stamping.

512. The Chairman shall in the performance and exercise of the duties and powers imposed and conferred on him by this Chapter be subject to the control of the Corporation. Control by Corporation.

CHAPTER XXXVII

Restraint of Infection [1]

513. (1) Every medical practitioner who treats or becomes cognizant of the existence of any dangerous disease in any private or public dwelling other than a public hospital shall give information of the same with the least practicable delay to the Health Officer. Medical practitioners to give information of existence of dangerous disease.

(2) The said information shall be communicated in such form and with such details as the Health Officer with the consent of the Chairman may from time to time require.

514. The Chairman may at any time by day or by night without notice or after giving such notice of his intention as may in the circumstances appear to him to be reasonable inspect any place in which any dangerous disease is reputed or suspected to exist and take such measures as he may think fit to prevent the spread of the said disease beyond such place. Power of Chairman to inspect places and take measures to prevent spread of dangerous disease.

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[1] For further enactments on this subject see the head "Infectious Disease" in the Index to the Indian Statutes 1911.

Prohibition of use for drinking or for washing clothes of water likely to cause dangerous disease

515. (1) If it appears to the Chairman that the water in any well tank or other place is likely if used for drinking or for the washing of clothes to engender or cause the spread of any dangerous disease he may by public notice prohibit the removal or use of the said water for the purpose of drinking or of washing clothes

(2) No person shall remove or use, for the purpose of drinking or of washing clothes any water in respect of which any such public notice has been issued

Power of Chairman or police officer to remove patient to hospital

516. (1) When any person in the opinion of the Health Officer is suffering from a dangerous disease and also is without proper lodging or accommodation or is lodged in a building occupied by more than one family, and such officer considers that such person should be removed to a hospital or place at which patients suffering from such disease are received for medical treatment such officer may send a certificate to that effect to the Chairman

(2) On receipt of any such certificate the Chairman may direct or cause the removal of such person to such hospital or place

Provided that if any such person is a female she shall not be removed to any such hospital or place unless the same has accommodation for females of a suitable kind and set apart from the portions assigned to males

(3) The Chairman shall in the exercise of his powers under sub-section (2) be subject to the control of the Corporation

(4) The person if any who has charge of a person in respect of whom an order is made under sub section (2) shall obey such order

(5) If any female who according to custom does not appear in public be removed to any hospital or place under sub section (2)—

(a) the removal must be effected in such a way as to preserve her privacy

(b) special accommodation suited to such custom must be provided for her in such hospital or place

(c) she shall be treated therein by female agency only, and

(d) her female relatives shall be allowed to remain with her

Disinfection of buildings or articles therein

517. (1) If the Chairman is of opinion that the cleansing or disinfecting of any building or any part of a building or any article therein which is likely to retain infection, would tend to prevent or check the spread of any dangerous disease he may cleanse or disinfect such building part or article and may, by written notice require the occupier of the building or

any part thereof to vacate the same for such time as may be prescribed in such notice

(2) The cost of such cleansing or disinfecting shall be paid by the occupier of the building

Provided that if in the opinion of the Chairman the occupier is from poverty unable to pay the said cost the Chairman may direct payment to be made from the Municipal Funds

518. (1) If the Chairman is of opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease he may after giving to the owner or occupier of such hut or shed such previous notice of his intention as may in the circumstances of the case appear to him reasonable take measures for having such hut or shed and all the materials thereof destroyed — Destruction of huts and sheds

(2) Compensation shall be paid by the Chairman to any person who sustains substantial loss by the destruction of any such hut or shed but except as so allowed by the Chairman no claim for compensation shall lie for any loss or damage caused by any exercise of the power conferred by sub-section (1)

Provided that if any person is dissatisfied with the amount of compensation paid by the Chairman he may appeal to the General Committee whose decision shall be final

519. (1) No person shall let a building or any part of a building in which he knows or has reason to know that a person has been suffering from a dangerous disease unless the Health Officer has disinfected the same and has granted a certificate to that effect or until a date specified in such certificate as that on which the building or part may be occupied without causing risk of infection — Infected building not to be let without being first disinfected

(2) For the purposes of sub-section (1) the keeper of an hotel or inn shall be deemed to let part of his building to any person accommodated therein

520. (1) The Chairman may provide a place or places with all necessary apparatus and attendance for the disinfection of conveyances clothing bedding or other articles which have become infected and when any articles have been brought to any such place for disinfection may cause them to be disinfected either— — Disinfection washing or destruction of infected articles

(a) in his discretion on payment of such fees as he may from time to time fix in this behalf with the approval of the Corporation or

(b) in any case in which he is satisfied that the parties are too poor to pay free of charge

(2) The Chairman may from time to time by public notice appoint a place or places at which conveyances clothing

bedding or other articles which have been exposed to infection from any dangerous disease may be washed, and no person shall wash any such article at any place not so appointed, without having previously disinfected the same

(3) The Chairman may, by written notice, direct the disinfection or destruction of any clothing, bedding or other articles likely to retain infection

(4) The Chairman shall pay compensation for any article destroyed under sub-section (3)

Infected articles not to be transmitted etc without previous disinfection

521. (1) No person shall, without previous disinfection of the same, give, lend, sell, transmit, or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from [illegible]

(2) Nothing [illegible] ply to a person who transmits, with [illegible] such article for the purpose of having [illegible]

Restrictions on carriage of patient in public conveyance

522. (1) No person who is suffering from a dangerous disease shall enter a public conveyance without previously notifying to the owner, driver, or person in charge of such conveyance that he is so suffering

(2) Notwithstanding anything contained in any Act[1] relating to public conveyances for the time being in force, no owner or driver or person in charge of a public conveyance shall be bound to carry any person suffering as aforesaid in such conveyance, unless payment or tender of sufficient compensation for the loss and expenses he must incur in disinfecting such conveyance is first of all made to him

(3) No person who is suffering from a dangerous disease shall, without proper precautions against spreading such disease, cause or suffer himself to be carried in a public conveyance

(4) No person shall go in company with, or take charge of, any person suffering as aforesaid who causes or permits himself to be carried in a public conveyance in contravention of sub section (1) or sub-section (3).

(5) No owner, driver or person in charge of a public conveyance shall knowingly carry or permit to be carried in such conveyance any person suffering as aforesaid, in contravention of sub-section (1) or sub section (3)

Disinfection of public conveyance after carriage of patient

523. (1) The owner, driver or person in charge of any public conveyance in which any person suffering from a dangerous disease has been carried shall immediately take the conveyance for disinfection to a place appointed under section 520

(2) The person in charge of such place shall forthwith intimate to the Health Officer the number of the conveyance and proceed to disinfect the conveyance

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[1] *See* the Calcutta Hackney-carriage Act 1891 (Ben Act 2 of 1891) *ante* p 5

of 1899.]

(Part V.—The Public Health, Safety and Convenience—Chapter XXXVII.—Restraint of Infection—Chapter XXXVIII.—Registration of Births and Deaths—Secs. 524-526.)

(3) No such conveyance shall be used until the Health Officer has granted a certificate stating that it may be used without causing risk of infection.

524. (1) The Chairman, with the sanction of the Corporation, may provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease. Provision of special conveyances for patients.

(2) When such conveyances have been provided, it shall not be lawful, without the sanction of the Chairman, to carry any such person in, or for any such person to cause himself to be carried in, any other public conveyance.

525. In the event of Calcutta being at any time visited or threatened with an outbreak of any dangerous disease, or in the event of any infectious epizootic disease breaking out or being likely to be introduced into Calcutta, Power of Chairman to take special measures on outbreak of dangerous disease or infectious epizootic disease.

the Chairman, if he considers that the other provisions of this Act or the provisions of any other law for the time being in force are insufficient for the purpose, may, with the approval of the Corporation and the sanction of the Local Government,—

(a) take such special measures, and
(b) by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons,

as he may deem necessary to prevent the outbreak of such disease or the spread thereof.

CHAPTER XXXVIII

REGISTRATION OF BIRTHS AND DEATHS[1]

526. (1) The Health Officer shall be chief registrar of Calcutta and shall keep, in such form as may from time to time be prescribed by the Local Government, a register of all births and deaths occurring in Calcutta. Appointment of registrars and sub-registrars.

(2) The Chairman shall, for the purposes of this Chapter, divide Calcutta into such and so many districts as the Local Government may think fit, and shall appoint a person to be registrar of births and deaths for each such district.

(3) On the occurrence of any dangerous disease the Chairman may, with the sanction of the General Committee, appoint as many additional registrars as he may think necessary.

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[1] As to registration of births and deaths *see* the Bengal Births and Deaths Registration Act, 1873 (Ben. Act 4 of 1873), in Vol. II of this Code.

(4) The Chairman shall appoint a sub-registrar for each registered or licensed burial or burning ground to register all corpses brought thereto for interment or cremation.

Dwelling-place of registrar and sub-registrar.

527. (1) Every registrar shall dwell within the district for which he is appointed, and every sub-registrar shall dwell in the vicinity of the burial or burning ground for which he is appointed.

(2) Every registrar and sub-registrar shall cause his name, with the addition of the words "Registrar of births and deaths for the district of " or "Sub-Registrar for the burial or burning ground," as the case may be, to be placed in some conspicuous place on or near the outer door of his dwelling-place.

List of registrars and sub-registrars.

528. The Chairman shall cause to be printed and published a list containing the name and dwelling-place of every registrar and sub-registrar.

Register books.

529. (1) The Chairman shall cause to be prepared and printed a sufficient number of register-books, in such form as may from time to time be prescribed by the Local Government, for making entries of all births and deaths occurring in Calcutta.

(2) The pages of such books shall be numbered progressively from the beginning to the end.

Registrar to inform himself of and register births and deaths.

530. (1) Every registrar shall inform himself of every birth and death occurring in his district, and shall ascertain and register, as soon as conveniently may be after the event, and without fee or reward, the particulars prescribed in Schedule XIX or Schedule XX, as the case may be, touching every birth or death which has not been already registered.

(2) Every entry in a register-book shall be made in order from the beginning to the end of the book.

Information of birth by whom to be given.

531. The father or mother of every child born in Calcutta, or in case of the death, illness, absence or inability of the father and mother, the occupier of the building in which such child is born shall, within eight days after the day of the birth, give information to the registrar of the district, according to the best of his or her knowledge and belief, of the several particulars prescribed in Schedule XIX.

Information of death by whom to be given.

532. The nearest relative present at the death, or in attendance during the last illness, of any person dying in Calcutta, or,

(in case of the death, illness, absence, inability or default of such relative) every other person present at the death, or

(in default of such relative or other person as aforesaid) the occupier of the building in which the death occurred, or,

(if such occupier be the person who has died) some person living in the building in which the death occurred,

shall, within twelve hours after the death, give information to the registrar of the district, or to the sub-registrar of the burial or burning ground where the body is buried or burnt, according to the best of his knowledge and belief, of the several particulars prescribed in Schedule XX

Provided as follows.—

(*a*) if any one of the aforesaid persons gives the required information, no other person shall be bound to give it,

(*b*) if the death occurs in a hospital, none of the aforesaid persons shall be bound to give information, but it shall be the duty of the medical officer in charge of the hospital, within twelve hours after the death, to send to the Health Officer a written notice containing the particulars prescribed in Schedule XX

Medical practitioners to send to Health Officer notice stating cause of death

533. Any medical man in attendance during the last illness of any person dying in Calcutta shall, within three days of his becoming cognizant of the death of such person, send a written notice to the Health Officer, as nearly as may be in the form prescribed in Schedule XX, stating to the best of his judgment, the cause of death

Duties of police with regard to unclaimed corpses

534. It shall be the duty of the police to convey every unclaimed corpse to a burial or burning ground or duly appointed mortuary, and to inform the registrar of the district when they have done so

Signature of register book by informant of birth or death

535. Every person by whom information is given for entry in any register-book of births or deaths shall sign his true name in the book and shall enter correctly therein his description and place of abode, and no registration shall be deemed to be complete or of any effect until this has been done

Provided that the registrar may fill up and sign the register-book for any person who is unable to write

Sextons etc, not to bury or burn corpse without certificate

536. A sexton or keeper of a burial or burning ground, whether situated within Calcutta or not shall not bury, burn or allow to be buried or burnt the corpse of any person who has died in Calcutta unless such corpse is accompanied by a certificate, in the form prescribed by Schedule XX, signed by a registrar or sub registrar appointed under section 526 or by a medical officer

Provided that, at any burial or burning ground where there is a sub-registrar who keeps a register in the form prescribed by the said Schedule, an entry in such register relating to the deceased shall be deemed sufficient

Transmission of copies of entries by sub registrar to registrar

537. Every sub-registrar shall, within twenty-four hours of registering any death under this Chapter, forward to the registrar of the district in which the death occurred a copy of the entry made by him, and the registrar on

receipt thereof shall forthwith enter the death in the district register

Power of Local Government to make rules

538. The Local Government may make rules [1]—

(*a*) prescribing the qualifications to be required in persons appointed to be registrars or sub-registrars under this Chapter and

(*b*) generally for the guidance of the Chairman, the Health Officer, registrars and sub-registrars in all matters connected with the carrying out of this Chapter

CHAPTER XXXIX

DISPOSAL OF THE DEAD [2]

Registration of places for disposal of the dead

539. Every owner or person having the control of a place used for burying burning or otherwise disposing of the dead shall cause the same to be registered in a register which shall be kept by some municipal officer charged by the Chairman with this duty, and shall deposit in the municipal office at the time of registration a plan of the said place, showing the extent and boundaries thereof and bearing the signature of a surveyor in token of its having been prepared by or under the supervision of such surveyor

Provision and registration of new places for disposal of the dead

540. If the existing places for the disposal of the dead appear at any time to be insufficient, or if any such place is closed under the provisions of section 542, the Chairman shall, with the sanction of the Corporation, provide other fit and convenient places for the said purpose, either within or without Calcutta and shall cause the same to be registered in the register kept under section 539 and shall deposit in the municipal office at the time of registration of each place so provided a plan thereof showing the extent and boundaries of the same and bearing the signature of the Engineer

Chairman's permission required to opening or re-opening places for disposal of the dead

541. (*1*) Except with the written permission of the Chairman—

(*a*) no place which has never previously been lawfully used as a place for the disposal of the dead and registered as such shall be opened by any person for the said purpose and

(*b*) no burial or burning ground which has fallen into disuse shall be again used as such

[1] ... see the Bengal Local Statutory Rules and ...

[2] ... the dead in Calcutta see the Calcutta Burial ... Burial Boards Act 1889 (Ben Act 4 of 1889)

of 1899.]

(Part. X—The Public Health, Safety and Convenience—Chapter XXXIX.—Disposal of the Dead—Secs 542, 543)

(2) The Chairman, with the approval of the Corporation, may grant or withhold such permission

Power of Local Government to direct the closing of any place for the disposal of the dead

542. (1) If, from information furnished by competent persons and after personal inspection, the Chairman is at any time of opinion—

(a) that any place of public worship is, or is likely to become injurious to health by reason of the state of the vaults or graves within the walls of or underneath the same, or in any church-yard or burial-ground adjacent thereto, or

(b) that any other place used for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health,

he may submit his said opinion, with the reasons therefor, to the Corporation, who shall forward the same, with their opinion, for the consideration of the Local Government

(2) Upon receipt of such opinions, the Local Government, after such further inquiry, if any, as it deems fit to make, may, by notification [1] published in the Calcutta Gazette and in local newspapers, direct that such place of public worship or other place for the disposal of the dead shall no longer be used for the disposal of the dead.

(3) Every such notification shall be noted in the register kept under section 539

(4) On the expiration of two months from the date of any such notification, the place to which the same relates shall be closed for the disposal of the dead

(5) A copy of the said notification, with a translation thereof in the Bengali and Urdu languages, shall be affixed on a conspicuous spot on or near the place to which the notification relates, unless such place be a place of public worship

Power of Local Government to direct re opening of place closed under section 542 or other law

543. (1) If, after personal inspection the Chairman is at any time of opinion that any place formerly used for the disposal of the dead which has been closed under section 542 or under any other law or authority has, by lapse of time become no longer injurious to health and may, without risk of danger be again used for the said purpose, he may submit his said opinion, with the reasons therefor, to the Corporation who shall forward the same, with their opinion for the consideration of the Local Government

(2) Upon receipt of such opinions the Local Government, after such further inquiry if any, as it deems fit to make, may, by notification published in the Calcutta Gazette, direct that such place be re-opened for the disposal of the dead

[1] For a list of notifications issued under section 542(2) see the Bengal Local Statutory Rules and Orders 1913 Vol I Pt VI and for further notifications, see Calcutta Gazette 1914 Pt IB pp 38, 63 and ibid 1915, Pt IB p 17

(3) Every such notification shall be noted in the register kept under section 539.

Register of burials and cremations.

544. (*1*) Every person having control of a burial or burning ground shall keep a register of all burials or cremations therein in which shall be entered the particulars given in every certificate furnished under section 536.

(*2*) The Chairman shall at all reasonable times have access to such register.

Prohibition of certain acts without the permission of the Chairman.

545. (*1*) No person shall without the written permission of the Chairman under sub-section (*2*)—

(*a*) make any vault, grave or interment within any wall, or underneath any passage, porch, portico, plinth or verandah, of any place of worship; or

(*b*) make any interment or otherwise dispose of any corpse in any place which is closed for the disposal of the dead under section 542; or

(*c*) build, dig or cause to be built or dug any grave or vault, or in any way dispose of, or suffer or permit to be disposed of, any corpse, at any place which is not registered in the register kept under section 539; or

(*d*) exhume any body from any place for the disposal of the dead except under the provisions of section 176 of the Code of Criminal Procedure, 1898,[1] or of some other law for the time being in force.

(*2*) The Chairman may in special cases grant permission for any of the acts mentioned in sub-section (*1*), subject to such general or special orders as the Local Government may make in this behalf.

(*3*) An offence against clause (*b*), clause (*c*) or clause (*d*) of sub-section (*1*) shall be deemed to be a cognizable offence within the meaning of sections 149, 150 and 151 of the said Code of Criminal Procedure, 1898.[1]

CHAPTER XL

CENSUS

Census when and how to be taken.

546. (*1*) At such time and in such manner as the Chairman, with the sanction of the Corporation and the Local Government, may from time to time direct, an enumeration shall be made of all persons then being in Calcutta.

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[1] Printed in the General Acts, [illegible] Ed. [illegible], p. [illegible]

(2) When any time is appointed under sub-section (1), the Local Government shall, at least one month before that time, publish a notification in the Calcutta Gazette, announcing the said time and containing all other particulars of which it considers the residents should be informed.

547. The Chairman, or any person specially appointed by the Corporation for the purpose, shall superintend the making of every such enumeration, and shall cause to be prepared and issued for the purposes of such enumeration such forms and instructions as he may consider necessary and as may be sanctioned by the Local Government. Superintendence

548. The expenses incurred in making any such enumeration shall be paid out of the Municipal Funds. Expenses

549. For the purposes of this Chapter each police division of Calcutta shall be formed into one or more enumeration districts. Enumeration districts

550. (1) The Chairman or person appointed under section 547 (hereinafter called "the Superintendent") shall select a sufficient number of competent persons to act as enumerators. Appointment and duties of enumerators

(2) Every enumerator shall obey all instructions issued to him by the Superintendent for the making of the enumeration, and shall, under the direction of the Superintendent and on the day appointed by the Corporation in this behalf,—

(a) visit every building within his district,
(b) take an account in writing of the name, sex, age, caste (if any), nationality and occupation of every person abiding in such building on the night immediately preceding the said day, and
(c) take an account in writing of all occupied buildings, all buildings then being built and uninhabited, and all other uninhabited buildings.

Provided that no female shall be required to disclose her name or age.

(3) Every occupier of a building or of any part of a building which is distinctly occupied shall be bound to afford to an enumerator any information which may be required from him under sub-section (2).

551. (1) The following persons, namely,— Military and naval officers and certain other persons if required to act as enumerators

(a) any military or naval officer in command of a body of military or naval men or of a vessel of war,
(b) any master of a merchant vessel,
(c) any *nacoda* or *tindal* of a vessel or boat,
(d) any person in charge of a lunatic asylum, hospital or prison or of any public or private charitable or scholastic institution, and
(e) any keeper of a hotel or lodging-house,

(Part V—The Public Health Safety and Convenience—Chapter XL—Census—Part VI—Chapter XLI—Railways—Secs 552-554)

shall if required by the Superintendent act as an enumerator for the purpose of taking an account in writing of the name sex age caste (if any) nationality and occupation of every person under his command or charge or abiding in any building in his possession charge or control on the night immediately preceding the day appointed as aforesaid and shall obey all instructions issued to him in writing by the Superintendent for the purposes of taking such account

(2) If any person upon whom a requisition is made under sub-section (*1*) is unable to write an enumerator appointed under section 550 shall fill up any form supplied to such person under that sub-section

Filling up of forms by occupiers of dwelling houses

552. (*1*) The Superintendent may if he considers it advisable to do so cause a form sanctioned by the Corporation and approved by the Local Government to be delivered to any occupier of a dwelling place or of any part of a dwelling place which is distinctly occupied who is able to write

(*2*) Every occupier to whom any such form is delivered shall fill up all the particulars required in the form in respect of the night immediately preceding the day appointed as aforesaid and shall deliver the form as so filled up to the person authorized by the Superintendent to demand the same

Returns of houseless persons and persons not otherwise enumerated

553 The Superintendent shall obtain by such ways and means as appear to him best adapted for the purpose and as are sanctioned by the Corporation returns showing the name sex age caste (if any) nationality and occupation of every homeless person and every person who during the night immediately preceding the day appointed as aforesaid was on out-door night duty or for any other reason was not abiding in any building for which an account is taken under the foregoing sections of this Chapter

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PART VI

CHAPTER XLI

RAILWAYS[1]

Powers of Corporation to construct or connect railways

554 With the previous sanction of the Government of India the Corporation may—

(*a*) upon any of the public streets within Calcutta or upon any land within or without Calcutta which is vested

[1] For the general law as to railways see the Indian Railways Act 1890 (9 of 1890) in the General Acts 1887-97 [illegible]
The word "railway" as used in this Act includes a tramway—see s 3 cl (39) ante p [illegible]

in the Corporation, construct or maintain any railway which may appear to the Corporation to be useful or necessary for the purposes of this Act,

(*b*) use and employ upon any such railway locomotive engines or other motive power, and carriages and wagons to be drawn or propelled thereby,

(*c*) carry and convey passengers and goods upon any such railway,

(*d*) make such reasonable charges in respect of such passengers or goods as the Corporation may from time to time determine,

(*e*) from time to time, enter into any contract with any person for the construction, maintenance and working of any railway as aforesaid, within or without Calcutta,

(*f*) from time to time, enter into any contract with any person for the passage over any railway as aforesaid of locomotive engines or other motive power, carriages and wagons belonging to or controlled by such person, upon the payment of such tolls or rent, and under such conditions and restrictions, as may be mutually agreed upon, and

(*g*) lease any railway as aforesaid to any person, upon such terms and under such conditions and restrictions as may be mutually agreed upon

Powers of lessee of Corporation railway

555. Any person to whom a railway is leased under clause (*g*) of section 554 shall, subject to the terms, conditions and restrictions of his lease have the same powers for maintaining the same, and for using and employing thereupon locomotive engines or other motive power and carriages and wagons to be drawn or propelled thereby, and for carrying and conveying thereupon passengers and goods and making charges in respect thereof as the Corporation would have had if the railway had not been so leased

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PART VII.

CHAPTER XLII

Acquisition and Disposal of Land and Buildings

Further powers for acquiring and disposing of land or buildings

556. In addition to the powers expressly conferred on any municipal authority by any other Chapter of this Act for acquisition and disposal of land or buildings, the Corporation may—

(*1*) acquire, or pay rent for, or take on lease under such conditions as they may think fit, any land and buildings,

whether situated in Calcutta or not, which may in their opinion be needed for carrying out any of the purposes of this Act, and

(*2*) sell, lease or otherwise transfer, on such terms as they may think fit, any land or building vested in them

Application of Land Acquisition Act 1894 with amendments

557. Any land or buildings which any municipal authority is authorized by this Act to acquire may be acquired under the provisions of the Land Acquisition Act, 1894[1], and for that purpose the said Act shall be subject to the following amendments namely —

(*a*) The expression "Collector" means also the Chairman of the Corporation of Calcutta

(*b*) Section 17 of the said Land Acquisition Act[1] shall apply also in the case of any area which is stated in a certificate granted by a Magistrate to be unhealthy Before granting any such certificate the Magistrate shall cause notice to be served as promptly as may be on the persons referred to in sub section (*3*) of section 9 of the said Act and shall hear without any avoidable delay any objections which may be urged by them against the application of the said section 17 When proceedings have been taken under the said section 17 for the acquisition of any land, and any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession

(*c*) The market-value of the land or building shall be deemed, for the purposes of clause *first* of sub-section (*1*) of section 23 of the said Land Acquisition Act[1], to be the market-value according to the disposition of the land or building at the date of the publication of the declaration relating thereto under section 6 of the said Land Acquisition Act[1] —

Provided as follows —

(*i*) if it be shown that, before such declaration was published, the owner of the land or building had taken active steps and incurred expenditure to secure a more profitable disposition of the same further compensation, based on his actual loss, may be paid to him;

(*ii*) if the market-value is specially high in consequence of the property being put to a use which is unlawful or contrary to public policy, that use shall be disregarded and the market-value shall be deemed to be

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[1] Printed in the General Acts, 1887 97, Ed 1909 p 363

the market-value of the land or building if put to ordinary uses;

(*iii*) If the market-value has been increased by means of any improvement made by the owner or his predecessor in interest within two years before the aforesaid declaration was published, such increase shall be disregarded unless it be proved that the improvement was made *bonâ fide* and not in contemplation of proceedings for the acquisition of the land or building being taken under the said Land Acquisition Act.[1]

(*d*) The market-value of the land or building shall, until the contrary is shown, be presumed, for the purposes of the said clause *first* of sub-section (*1*) of section 23, to be twenty-five times the annual value of the property, as entered in the assessment-book prescribed by this Act:

Provided that this presumption shall not be made in respect of any land or building until a re-assessment has been made after the commencement of this Act, for the district in which such land or building is situated.

(*e*) Clauses *fourthly* and *fifthly* of sub-section (*1*) of section 23 of the said Land Acquisition Act[1] shall not apply in the case of tanneries, *surki* mills or other offensive trades.

Vesting in Corporation of land and buildings acquired under the Land Acquisition Act 1894.

558. On payment by the Corporation, out of the Municipal Funds, of the compensation awarded under the said Land Acquisition Act, 1894[1], in respect of any land or buildings, and of any other charges incurred in acquiring the land or buildings, the same shall vest in the Corporation.

PART VIII.

CHAPTER XLIII

BY-LAWS, RULES AND REGULATIONS

Powers of General Committee for making by-laws.

559. The General Committee may make by-laws[2]—

(*1*) regulating the conduct of business at meetings of Sub-Committees;

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[1] [illegible]

(2) prescribing rates, other than those mentioned in Schedule IX, for the payment of fees for licenses referred to in section 203;

(3) regulating—

(*a*) the detention and examination of petroleum introduced into Calcutta for consumption therein,

(*b*) the collection of any tax imposed under section 206, and

(*c*) such other matters connected with the introduction of petroleum into Calcutta for consumption therein as the General Committee may from time to time think fit to regulate

Provided that no such by-law shall render petroleum, passing through Calcutta in transit for any place beyond Calcutta, liable to taxation or to any detention or examination whatsoever under this Act;

(4) prescribing the procedure to be followed by owners or occupiers desiring a water-supply,

(5) prescribing a schedule of charges for water supply for other than domestic purposes,

(6) regulating the testing of the purity of filtered water supplied under Chapter XX;

(7) providing for the maintenance of a map of the water-supply system and facilitating the inspection of the same by ratepayers,

(8) regulating, in any particular not specifically provided for in this Act,—

(*i*) the construction and maintenance of water-pipes, taps and fittings, and

(*ii*) all matters and things connected with the supply and use of water, the control of the water-supply and the administration of Chapter XX,

(9) specifying the manner in which house-drains and privies are to be connected with the municipal drains,

(10) prescribing the procedure to be followed by owners and occupiers of premises in connecting house-drains and privies with the municipal drains,

(11) specifying the materials to be used in the construction of drains,

(12) regulating, in any particular not specifically provided for in Chapter XXI, Schedule XV or Schedule XVI, the construction of ventilation-shafts or pipes, cesspools, privies, urinals and drainage-works of every description, whether belonging to the

Corporation or not and the maintenance control and cleansing of drains ventilation shafts or pipes cesspools privies urinals and drainage works of every description whether belonging to the Corporation or not

(*13*) providing for the maintenance of a map of the sewerage system and facilitating the inspection of the same by ratepayers

(*14*) declaring the qualifications to be required from and regulating the appointment suspension and dismissal of licensed plumbers

(*15*) for the alteration of doors gates bars and windows opening outwards on a public street

(*16*) for the provision maintenance and lighting of hoards or fences in public streets when building work is carried on

(*17*) regulating the making of holes and the depositing of materials in a public street

(*18*) prohibiting or regulating the placing of obstructions projections or encroachment or the depositing of materials or goods in a public street or in or over any drain or aqueduct in a public street or on any land vested in the Corporation

(*19*) for the provision and maintenance of gutters and pipes for carrying and discharging water from buildings in public streets

(*20*) regulating the construction of approach roads crossing the foot path of a public street

(*21*) for altering the position of pipes and appliances laid in streets

(*22*) regulating in any particular not specifically provided for in this Act all matters relating to the fittings of streets and the width and construction of streets

(*23*) regulating the use of land as sites for the erection of buildings

(*24*) regulating the erection and re erection of buildings

(*25*) regulating the making of alterations in and additions to buildings

(*26*) specifying the manner in which stables cattle sheds and cow houses are to be constructed and connected with the municipal drains

(*27*) for the inspection of milch cattle and prescribing and regulating the ventilation lighting cleansing drainage and water supply of dairies and cattle s

the occupation of persons following the trade of dairy man or milk-seller

(28) for enforcing the cleanliness of milk stores and milk shops and milk vessels used for containing milk

(29) requiring notice to be given whenever any milch animal is affected with any contagious disease and prescribing precautions to be taken for protecting milch cattle and milk against infection or contamination

(30) for the inspection supervision and control of all premises used for any of the purposes referred to and mentioned in section 466 and of all trades and manufactures carried on therein

(31) for the management of any wash houses maintained under section 474 and for the control of persons carrying on business therein or resorting thereto

(32) for securing the efficient inspection of markets slaughter houses and places set apart under proviso (*iii*) to section 481

(33) regulating the management of and the conduct of business in markets

(34) regulating the use of any municipal market building municipal market place municipal slaughter house or any part thereof or any place set apart as aforesaid

(35) controlling and regulating the sanitary condition of markets slaughter houses and places set apart as aforesaid and preventing the exercise of cruelty therein

(36) for preventing persons suffering from any loathsome disease from keeping stalls in or being employed in preparing or selling articles of food in any market or from entering any municipal market or touching any article brought thereto for sale and for authorizing the expulsion of such persons from any municipal market

(37) for preventing persons suffering from any infectious or contagious disease living in places where food or drugs is or are sold stored or prepared and for disinfecting the place where any such case has occurred

(38) for preventing the use in any market of false or defective weights scales or measures

(39) for publishing a price current

(Part VIII—Chapter XLIII—By-laws, Rules and Regulations—Secs 560, 561)

(*40*) for the control and supervision of butchers carrying on business within Calcutta or at any municipal slaughter-house without Calcutta,

(*41*) for securing the efficient inspection and sanitary regulation of shops in which articles intended for human food, or drugs, are kept or sold;

(*42*) regulating the speedy disposal of corpses,

(*43*) regulating the carrying of corpses along streets;

(*44*) regulating the removal of corpses or parts of corpses which have been kept or used for purposes of dissection,

(*45*) regulating the digging and making of graves and vaults,

(*46*) regulating the re-opening of graves and vaults for purposes of fresh interments,

(*47*) regulating cremation,

(*48*) generally, for regulating the disposal of the dead, the inspection of all places for the disposal of the dead, and the maintenance of all such places in good order and in a safe sanitary condition,

(*49*) for facilitating the taking of a census and securing accurate returns thereof,

(*50*) for securing the registration of marriages,

(*51*) prescribing the conditions under which persons shall be permitted to drive registered carts,

(*52*) for the regulation of theatres and other places of public resort, recreation or amusement,

(*53*) for the regulation of lodging-houses,

(*54*) regulating the removal and disposal of noxious vegetation, and

(*55*) generally, for carrying out the provisions and intentions of this Act

Type plans to be annexed to certain by laws

560. There shall be annexed to by-laws made under clause (*9*), clause (*12*) or clause (*26*) of section 559 type-plans of all constructions referred to in them and the said plans shall be open to the inspection of any applicant at the municipal office at all reasonable times

Penalties for breach of by laws

561. In making a by-law under section 559, the General Committee may provide that a breach of it shall be punishable—

(*a*) with fine which may
the case of a con

may extend to ten rupees for every day during which the breach continues after conviction for the first breach, or

(b) with fine which may extend to ten rupees for every day during which the breach continues after receipt of written notice from the Chairman to discontinue the breach

By laws on certain matters to be made within six months

562. By-laws dealing with the several matters mentioned in clauses (4) to (14) and (26) of section 559 shall be made by the General Committee within six months from the commencement of this Act

Power of Corporation to require General Committee to make by laws

563. The Corporation may at any time require the General Committee to make by-laws under any clause of section 559, and the General Committee shall be bound to comply with any such requisition

Powers for making by laws rules and regulations exercisable from time to time

564. Any power conferred by this Act for making by-laws, rules or regulations may be exercised from time to time as occasion requires

Conditions precedent to the making of by laws

565. The power to make by-laws under this Act is subject to the condition of the by-laws being made after previous publication, and to the following further conditions, namely —

(a) a draft of the by-laws shall be published in the Calcutta Gazette and in local newspapers,

(b) such draft shall not be further proceeded with until after the expiration of a period of one month from such publication or such longer period as the General Committee may appoint

(c) for one month at least during such period, a printed copy of such draft shall be kept at the municipal office for public inspection, and every person shall be permitted at any reasonable time to peruse the same, free of charge

(d) printed copies of such draft shall be delivered to any person requiring the same, on payment of such fee, not exceeding two annas for each copy, as may be prescribed by the Chairman

By laws to be subject to confirmation and sanction

566. (1) No by-law made by the General Committee under this Act shall have any validity unless and until it is confirmed by the Corporation and sanctioned by the Local Government.

(Part VIII.—Chapter XLIII —By-laws, Rules and Regulations.—Secs. 567-571)

(2) Before confirming or sanctioning any such by-law, the Corporation or the Local Government, as the case may be, may modify it.

567. (1) The Local Government may make rules[1], to regulate any of the matters referred to in sections 36, 54, 308, 314 and 363, and may, by such rules, alter add to, or cancel any of, the rules contained in Schedules IV, V, XV, XVI and XVII, respectively. *Power to make rules for the amendment of certain Schedules*

(2) The Local Government may make rules[1] for altering, adding to, or cancelling any part of, Schedule II, Schedule XIX or Schedule XX

(3) All references in this Act to any of the aforesaid Schedules shall be construed as referring to such Schedule as for the time being amended in exercise of the powers conferred by sub-section (1) or sub-section (2), as the case may be

568. (1) The power to make rules under any section of this Act is subject to the condition of the rules being made after previous publication *Conditions precedent to the making of rules*

(2) The power to make rules under section 9, sub-section (3), section 95, sub-section (6), section 96, sub-section (4), or section 567 is also subject to the following further conditions, namely —

(a) a draft of the rules shall be published in the Calcutta Gazette and forwarded to the Corporation for its opinion ,

(b) such draft shall not be further proceeded with until six weeks after such publication or until such later date as the Local Government may appoint.

569. (1) No rule made under section 68, section 73, section 96, sub-section (5) or section 627 shall have any validity unless and until it is sanctioned by the Local Government *Certain rules to be subject to sanction*

(2) Before sanctioning any such rule, the Local Government may modify it

570. When any by-law, rule or regulation has been made under this Act and (where confirmation is required) duly confirmed and (where sanction is required) duly sanctioned, it shall be published in the Calcutta Gazette, and such publication shall be conclusive proof that the by-law, rule or regulation has been duly made *Publication of by-laws, rules and regulations in Gazette*

571. (1) The Chairman shall cause all by-laws, rules and regulations (except rules made under section 627) from time *Printing and sale of copies of by-laws, rules and regulations*

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[1] [illegible] Local Statutory Rules and Orders, Sch XVII see Calcutta Gazette, II, IV, V, XVI and XVII, respec

to time in force to be printed and shall cause printed copies thereof to be delivered to any applicant on payment of a fee of two annas for each copy

(2) Notice of the fact of copies of by-laws rules and regulations being obtainable at the said price and of the place where and the person from whom the same are obtainable shall be given by the Chairman from time to time by advertisement in local newspapers

Exhibition of by-laws rules and regulations on board

572 (1) Boards with the by-laws rules and regulations [except rules made under section 8 section 9 section 73 section 94 section 95 sub-section (6) section 96 sub-section (4) or sub-section (5) or section 627] printed thereon or with printed copies of the by-laws rules and regulations affixed thereto shall be hung or affixed in some conspicuous part of the municipal office and in such places of public resort markets slaughter-houses and other places affected thereby as the Chairman thinks fit and the said boards shall from time to time be renewed by the Chairman

(2) No municipal officer or servant shall prevent the inspection by any person at any reasonable time of any board provided by the Chairman under sub-section (1)

(3) No person shall without lawful authority destroy pull down injure or deface any such board

Power of Local Government to cancel by-laws rule and regulations

573 (1) If the Local Government is at any time of opinion that any by-law rule or regulation made under this Act by any municipal authority should be cancelled either wholly or in part it shall cause the reasons for such opinion to be communicated to the Corporation and shall prescribe a reasonable period within which the Corporation may make any representation with regard thereto which they may think fit

(2) After receipt and consideration of any such representation or if in the meantime no such ... after the expiry of the prescribed peri... may at any time by notification ... cancel such by-law rule or regul... in part

Provided that no by-law rule or regulation shall be cancelled in part only if within the period aforesaid the Corporation have objected to a partial cancellation thereof

(3) The cancellation of a by-law rule or regulation under sub-section (2) shall take effect from such date as the Local Government may in the said notification direct or if no such date is specified then from the date of the publication of the said notification in the Calcutta Gazette except as to anything done or suffered or omitted to be done before such date

(4) The said notification shall also be published in local newspapers

PART IX.

CHAPTER XLIV.

PENALTIES.

574. Whoever—

(*a*) contravenes any provision of any of the clauses of this Act mentioned in the first column of the following table; or

Certain offences punishable with fine

(*b*) contravenes any provision of any rule or regulation made under any of the said clauses; or

(*c*) fails to comply with any direction lawfully given to him or any requisition lawfully made upon him under any of the said clauses, rules or regulations,

shall be punished with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation.—The entries in the second column of the following table, headed "Subject," are not intended as definitions of the offences described in the clauses mentioned in the first column, or even as abstracts of those clauses, but are inserted merely as references to the subject of the clause the number of which is given in the first column.

1	2	3
Clauses	Subject	Fine which may be imposed
Section 57, sub-section (*1*)	Accepting bribe at election	One hundred rupees
Section 57, sub-section (*2*)	Giving bribe at election	Five hundred rupees
Section 143, sub-section (*2*)	Requisition by auditors to produce documents, etc.	One hundred rupees
Section 156, sub-sections (*1*) and (*2*)	Requisition for returns of measurements and rent or annual value of building or land	Two hundred rupees
Section 191, clause (*a*)	Obligation to forward statement of carriages and animals liable to taxation	Twenty rupees
Section 191, clause (*b*)	Obligation to forward statement of carriages and animals liable to taxation	Twenty rupees

(Part IX.—Chapter XLIV.—Penalties—Sec 574)

1	2	3
Clauses	Subject	Fine which may be imposed
Section 192 ...	Requisition on occupier to forward statement of carriages and animals liable to taxation	Twenty rupees
Section 195	Requisition on livery stable keeper to produce books and accounts for inspection	One hundred rupees
Section 201	Requisition on occupier to forward list of companies, associations or bodies of individuals or persons carrying on profession, trade or calling in his premises	One hundred rupees
Section 206 sub-section (2)	Introduction of petroleum into Calcutta for storage	One thousand rupees
Section 210 sub-section (1)	Keeping or possessing cart not duly registered .	Three times the amount payable for registration, exclusive of the amount so payable
Section 210 sub-section (2)	Failing to affix registration number to cart ...	Five rupees
Section 245 .	Improper use of filtered water supplied for domestic purposes	Ten rupees
Section 246 sub-section (3)	Use of unfiltered water for domestic purposes ...	Five rupees
Section 260 sub-section (5)	Executing works for supply of water otherwise than in presence of authorized municipal officer	One hundred rupees
Section 262	Replacing or alteration of fittings for supply of unfiltered water for the flushing of privies or urinals	Fifty rupees
Section 266 ...	Unlawfully flushing, etc., water, or damaging pipes, etc	One hundred rupees
Section 268, sub-section (1)	Waste of water supplied to premises . .	Fifty rupees
Section 268, sub-section (2)	Waste of water by misusing public stand posts, drinking fountains or hydrants	Five rupees
Section 276, sub-section (1)	Fraud in respect of meter	One hundred rupees
Section 277 ...	Injuring meter or fittings	One hundred rupees

(Part IX.—Chapter XLIV.—Penalties—Sec. 574)

1	2	3
Clauses	Subject	Fine which may be imposed
Section 279, sub section (2)	Unauthorizedly taking water for use outside Calcutta	Fifty rupees
Section 284	Requisition to fill up well	Twenty five rupees
Section 292 sub section (1)	Constructing railway, private street, wall or other structure over municipal drain	One hundred rupees
Section 296, sub section (1)	Unlawfully connecting house drain with municipal drain	One hundred rupees
Section 297	Requisition to connect one house drain with another	Fifty rupees
Section 299	Requisition to make house drain and provide appliances or fittings or to remove house drain etc	Fifty rupees
Section 300	Requisition to make house drain	Fifty rupees
Section 301, clause (b)	Direction as to use of house drain and requisition to make new house drain	Fifty rupees
Section 303	Unlawfully constructing drain so as to pass beneath a building	One hundred rupees
Section 304	Constructing cesspool beneath a building used for human habitation etc	One hundred rupees
Section 305, clause (a)	Requisition to repair flush cleanse or empty house drain	Fifty rupees
Section 307 sub section (2)	Requisition to construct new surface drain for benefit of occupants of hut	Fifty rupees
Section 308	Construction of drains	One hundred rupees
Section 310 sub section (3)	Keeping a public privy or urinal without license or suffering a licensed public privy or urinal to be in a filthy or noxious state	One hundred rupees
Section 311	Provision of privy or privy and urinal for building	One hundred rupees
Section 312	Requisition to provide privy or urinal for building land or *bustee*	Fifty rupees
Section 313	Requisition to provide privies and urinals for premises used by large numbers of people	Two hundred rupees

(Part IX.—Chapter XLIV—Penalties.—Sec 574.)

1	2	3
Clauses	Subject.	Fine which may be imposed
Section 314	Construction maintenance and regulation of privies urinals and appurtenances thereof	Two hundred rupees
Section 320 sub section (1)	Requisition to close, remove renew or take other order with house drain ventilation shaft or pipe cess pool house gully privy or urinal	Fifty rupees
Section 325 sub section (1)	Constructing filth receptacle within fifty feet of tank water course or reservoir	Twenty rupees
Section 325 sub section (2)	Requisition to remove filth receptacle situated within fifty feet of tank, water course or reservoir	Twenty rupees.
Section 326	Prohibition of certain acts in connection with drainage etc	One hundred rupees
Section 328 clause (b)	Requisition to alter, pave etc house drain cess pool privy or urinal	One hundred rupees
Section 332 sub section (1)	Prohibition of execution of certain work by persons other than licensed plumbers	Two hundred and fifty rupees
Section 332 sub section (2)	Prohibition of owner or occupier causing or allowing certain work to be executed by persons other than licensed plumbers	Fifty rupees
Section 333 sub section (3)	Prohibition of licensed plumber demanding or receiving more than prescribed charge	Twenty rupees
Section 335 sub section (1)	Prohibition of licensed plumber infringing regulations executing work carelessly or negligently, or using bad materials appliances or fittings	Fifty rupees
Section 340 sub section (1)	Erection or re erection of verandah supported by pillars resting on street	Two hundred and fifty rupees
Section 340 sub-section (2)	Placing roof on certain verandahs	Two hundred and fifty rupees
Section 340 sub section (3)	Putting up verandahs etc, to project over street, without permission	Two hundred and fifty rupees
Section 340 sub section (5)	Requisition to comply with condition subject to which permission was given to put up verandahs, etc, to project over street	One hundred rupees

(*Part IX.—Chapter XLIV.—Penalties.—Sec. 574.*)

1	2	3
Clauses.	Subject	Fine which may be imposed
Section 340, sub-section (6)	Requisition to remove verandahs, etc, projecting over street.	One hundred rupees
Section 341, sub section (1)	Requisition to remove or alter fixture ...	Two hundred rupees
Section 343 ...	Requisition to repair etc, building, tank, etc. dangerous to passengers or persons living in the neighbourhood	Two hundred rupees
Section 344, sub section (1)	Erection or maintenance of sky sign without permission	Two hundred rupees
Section 345, sub section (2)	Unlawfully removing fence or shoring timber or removing or extinguishing light	Fifty rupees
Section 346, sub section (3)	Unlawfully infringing order prohibiting traffic or removing bar, chain or post	Fifty rupees
Section 348, sub section (2)	Unlawfully destroying, pulling down, etc, name of public street.	Twenty rupees
Section 349, sub section (2)	Unlawfully destroying pulling down, etc, number of building	Twenty rupees
Section 352, sub section (1)	Requisition to set back building or wall .	One hundred rupees
Section 359 ...	Unlawfully making or laying out a private street	Five hundred rupees
Section 361, sub section (1)	Requisition to level, etc, a private street .	One hundred rupees
Section 368, sub section (1)	Construction of external roofs or walls of buildings with inflammable materials	Twenty five rupees
Section 368, sub section (2).	Requisition to remove or alter external roof or wall made of inflammable material	Twenty five rupees
Section 369 ...	Requisition to provide public building with external doors or doorways, or to cause the external doors thereof to open outwards	One hundred rupees
Section 380 ...	*Sending written notice to Engineer before commencing to erect or re erect a masonry building*	*Fifty rupees*
Section 381 ...	Sending written notice to Engineer after completion of erection or re erection of masonry building	One hundred rupees.

(*Part IX—Chapter XLIV.—Penalties—Sec 574*)

1	2	3
Clauses	Subject	Fine which may be imposed
Section 408	Requisition to carry out in *bustee* improvements indicated in schedule annexed to report of Medical Officer and Engineer	Two hundred rupees
Section 421	Requisition to cleanse *bustee*	One hundred rupees
Section 423	Unlawfully removing, breaking or damaging lamp, lamp post, etc	One hundred rupees
Section 425, sub sections (*1*), (*2*), (*3*) and (*5*)	Laying of gas pipes	Five hundred rupees
Section 426, sub section (*1*)	Requisition to alter situation of gas pipe or gas work laid in street	Fifty rupees
Section 427, sub section (*1*)	Constructing railway private street, building wall or other structure over municipal gas pipe	One hundred rupees
Section 429, sub section (*2*)	Provision of land in *bustee* when required for deposit or disposal of rubbish etc	Ten rupees
Section 430, sub section (1)	Direction to collect rubbish and offensive matter and deposit it at or near entrance to premises	Ten rupees
Section 430 sub section (*2*)	Direction to collect rubbish and offensive matter and deposit it in public receptacle	Ten rupees
Section 430 sub section (*3*)	Direction to collect rubbish and offensive matter and deposit it in lump in street or premises	Ten rupees
Section 431	Direction to collect and remove rubbish and offensive matter accumulating on business premises	Ten rupees
Section 436 sub section (*1*)	Allowing rubbish or offensive matter to accumulate on premises for more than twenty four hours	Fifty rupees
Section 436 sub-section (*2*)	Irregular deposit of rubbish or offensive matter	Ten rupees
Section 436, sub section (*3*)	Irregular removal of sewage or offensive matter	Twenty five rupees
Section 436 sub-section (*4*)	Irregular placing of rubbish, offensive matter or sewage.	Twenty five rupees
Section 436, sub section (*5*)	Allowing filthy matter to flow or soak from premises or create a nuisance	Fifty rupees

(Part IX.—Chapter XLIV.—Penalties.—Sec. 574.)

1	2	3
Clauses	Subject	Fine which may be imposed
Section 441 ...	Requisition to secure, enclose, cleanse or clear building or land which is untenanted, filthy or a nuisance	Fifty rupees
Section 442, sub section (1)	Requisition to take down, repair or secure building or fixture in a ruinous state, etc	Five hundred rupees
Section 444, sub section (2)	Using building declared unfit for human habitation	Five hundred rupees
Section 445, sub section (1)	Requisition to abate overcrowding in building or room	Twenty five rupees
Section 445 sub section (4)	Requisition to vacate overcrowded building or room	Twenty rupees
Section 446, sub-section (1)	Requisition to execute works or take measures with respect to building or block of buildings in order to prevent risk of disease	One hundred rupees in the case of a masonry building or block of masonry buildings and fifty rupees in the case of a hut or block of huts
Section 447, sub section (1)	Requisition to cleanse, fill up or de water well tank or marshy ground, or to drain off or remove waste or stagnant water	Two hundred rupees
Section 448 sub section (3)	Making excavation or digging cesspool, tank, well or pit, after prohibition	One hundred rupees
Section 448 sub section (4)	Requisition to fill up excavation cesspool tank, well or pit unlawfully made	Fifty rupees
Section 451, sub section (1)	Requisition to stop work pending decision of Magistrate	One hundred rupees
Section 453 .	Keeping of animals .	Fifty rupees
Section 455 sub section (5)	Keeping milch cattle in declared area for the purpose of supplying milk for sale	Fifty rupees
Section 445 sub section (6)	Removal from declared area of milch cattle kept for the purpose of supplying milk for sale	Fifty rupees
Section 457 .	Direction to discontinue use of building as a stable, cattle shed or cow house	Fifty rupees

(*Part IX.—Chapter XLIV.—Penalties.—Sec. 574.*)

1	2	3
Clause	Subject	Fine which may be imposed
Section 458, sub-sections (*1*) and (*3*)	Removal of carcass of animal	Ten rupees
Section 461, clauses (*a*) (*b*) and (*c*)	Unlawful bathing or washing in certain places ..	Fifty rupees
Section 461, clause (*d*)	Unlawfully fouling water in certain places ..	Fifty rupees
Section 461, clause (*e*)	Unlawfully drying clothes in certain places .	Ten rupees
Section 461, clauses (*i*) and (*ii*)	Unlawful use of certain places for bathing, washing animals or drying clothes	Ten rupees
Section 462 ...	Fouling of water	Fifty rupees
Section 463, sub-section (*1*)	Establishing factory, etc., without permission ..	One thousand rupees
Section 464, sub-section (*1*)	Requisition for cleansing or ventilating factory, etc., or for abating overcrowding or preventing danger therein	Two hundred rupees
Section 465, sub-section (*1*)	Using steam whistle or steam trumpet without permission	One hundred rupees
Section 466, sub-section (*1*)	Carrying on certain trades without license or contrary to terms of license	Five hundred rupees
Section 466, sub-section (*2*)	Affixing board on licensed premises, showing licensee's name, etc.	Twenty rupees
Section 469, sub-section (*5*)	Using premises in declared area for any purpose referred to or mentioned in section 466	Fifty rupees
Section 470, sub-section (*1*)	Requisition to discontinue use of premises for certain trades near dwelling houses	Two hundred rupees
Section 472, sub-section (*1*)	Fouling water in carrying on trade or manufacture	One thousand rupees
Section 476, sub-section (*2*)	Washing of clothes by washermen at unauthorized places	Twenty rupees
Section 479, sub-section (*1*)	Sale in municipal market without license ..	Fifty rupees

(Part IX.—Chapter XLIV —Penalties —Secs. 574.)

1	2	3
Clauses	Subject	Fine which may be imposed
Section 480 sub section (2)	Establishing new private market without sanction of Corporation	One thousand rupees
Section 481, sub section (1)	Keeping open private market or using place as slaughter house without license, or contrary to terms of license	Fifty rupees
Section 482 ..	Permitting place to be used as a private market without license	Two hundred rupees
Section 484 ...	Sale in private market which Magistrate has directed to be closed	Ten rupees
Section 485 sub section (1)	Requisition to pave and drain private market *bazar* private slaughter house or place set apart *for sacrifice of animals*	Fifty rupees
Section 487 ...	Requisition to set out, clear widen, maintain or alter approaches roads paths or ways to or in a private market or *bazar*	Fifty rupees
Section 488 ..	Regulations for markets, *bazars*, slaughter houses and places set apart for sacrifice of animals	Fifty rupees
Section 491, sub section (2)	Unlawfully destroying, etc , copy of regulation or table of charges posted up in market or slaughter house	Ten rupees
Section 493, sub section (1)	Sale of animal meat or fish outside market	Twenty rupees
Section 494 ..	Carrying on trade of butcher or seller of meat without license or contrary to terms of license	One hundred rupees
Section 495 sub section (1)	*Sale or manufacture of article of human food* or drink not of the proper nature substance or quality	*One hundred* rupees for a first offence and five hundred rupees for any subsequent offence
Section 496	Sale of diseased or unwholesome animal or article intended for human food	Fifty rupees
Section 497, sub section (1)	Using unregistered shop or place for retail sale of drugs	One hundred rupees
Section 499 sub section (1)	Compounding, etc , drugs in registered shop or place without certificate or permission	Fifty rupees.

1	2	3
Clauses	Subject	Fine which may be imposed
Section 499 sub section (2)	Employing unauthorized person to compound, etc., drugs in registered shop or place	Two hundred rupees
Section 507 sub section (1)	Sale of article of food required for purposes of analysis	Fifty rupees
Section 513 ...	Medical practitioners to give information of existence of dangerous disease	Fifty rupees
Section 515, sub section (2)	Removing or using for the purpose of drinking or of washing clothes, water which is likely to engender or spread a dangerous disease	Two hundred rupees
Section 516, sub section (1)	Removal to hospital of patient suffering from dangerous disease	One hundred rupees
Section 517, sub section (1)	Requisition on occupier to vacate building or part thereof, to admit of disinfection	Fifty rupees
Section 519, sub section (1)	Letting infected building ...	Five hundred rupees
Section 520 sub section (2)	Washing infected article at unauthorized place ..	One hundred rupees
Section 520 sub section (3)	Direction to disinfect or destroy article likely to retain infection	One hundred rupees
Section 521 sub section (1)	Transmitting, etc. infected article	Two hundred rupees
Section 522 sub section (1)	Infected person entering public conveyance without notifying infection	Fifty rupees
Section 522 sub sections (3) (4) and (5)	Carriage of infected person in public conveyance without proper precautions against spreading of disease	Two hundred rupees
Section 523 sub section (1)	Taking public conveyance to appointed place for disinfection	Two hundred rupees
Section 523 sub section (3)	Using infected public conveyance ...	Five hundred rupees
Section 524, sub section (2)	Carrying infected persons in other than special conveyances, without sanction of Chairman	Two hundred rupees
Section 531 ..	Information of birth	Ten rupees
Section 532 ...	Information of death	Ten rupees

(Part IX—Chapter XLIV—Penalties—Sec. 574.)

1	2	3
Clauses	Subject	Fine which may be imposed
Section 533 .	Notice by medical practitioner to Health Officer stating cause of death	Fifty rupees
Section 535 ...	Signature of register book by informant of birth or death	Twenty rupees
Section 536	Burying or burning corpse without certificate .	One hundred rupees
Section 539	Registration of place for disposal of the dead and depositing of plan in municipal office	One hundred rupees
Section 541, sub-section (1)	Opening or using place for disposal of the dead without permission	Five hundred rupees
Section 544, sub-section (1)	Register of burials or cremations .	Fifty rupees
Section 545, sub-section (1)	Making vault, grave or interment or disposing of corpse or exhuming corpse in certain cases, without permission	Five hundred rupees
Section 550, sub-section (3)	Information to census enumerator	One hundred rupees
Section 551, sub-section (1)	Certain persons to act as census enumerators and to obey instructions of Superintendent	One hundred rupees
Section 552, sub-section (2)	Occupier to fill up census form and deliver same to Superintendent's delegate	One hundred rupees
Section 572, sub-section (2)	Preventing inspection of board showing by-laws, rules or regulations	Fifty rupees
Section 572, sub-section (3)	Destroying, etc., board showing by-laws, rules or regulations	Ten rupees
Section 586, sub-section (6)	Production of license or written permission .	Fifty rupees
Section 622, sub-section (3)	Occupier to afford facilities to owner for complying with Act, rules, by-laws, regulations and requisitions	Fifty rupees
Schedule XVI, rule 2, sub-rule (1)	Placing service privy on upper floor	Twenty rupees

(*Part IX.—Chapter XLIV.—Penalties.—Sec. 575.*)

1	2	3
Clauses	Subject	Fine which may be imposed
Schedule XVI rule 2 sub rule (1) proviso	Requisition to pay sum for removing sewage from service privy situated on upper floor	Twenty rupees
Schedule XVI rule 2, sub rule (2)	Requisition to convert service privy into a connected privy	Twenty rupees
Schedule XVI rule 3 sub rule (1)	Requisition to form a passage giving access to a privy from the street	Twenty rupees
Schedule XVI, rule 16	Requisition to alter privy or urinal erected or re erected after commencement of Act	Twenty rupees
Schedule XVI rule 2 sub rule (2) rule 3 or rule 16, read with rule 17, sub rule (2)	Requisition to convert service privy into a connected privy, to form a passage giving access to a privy from the street, or to alter privy or urinal, where the privy or urinal was erected before commencement of Act	Twenty rupees

Continuing offences in certain cases punishable after a first conviction with a daily fine

575. Whoever, after having been convicted of—

(*a*) contravening any provision of any of the clauses of this Act mentioned in the first column of the following table, or

(*b*) contravening any provision of any rule or regulation made under any of the said clauses; or

(*c*) failing to comply with any direction lawfully given to him or any requisiton lawfully made upon him under any of the said clauses, rules or regulations,

continues to contravene the said provision or to neglect to comply with the said direction or requisition, as the case may be,

shall be punished, for each day after the first during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation.—The entries in the second column of the following table, headed "Subject" are not intended as definitions of the offences described in the clauses mentioned in the first column, or even as abstracts of those clauses but are inserted merely as references to the subject of the clause, the number of which is given in the first column

(*Part IX.—Chapter XLIV.—Penalties.—Sec. 575.*)

1	2	3
Clauses	Subject	Daily fine which may be imposed
Section 143, sub-section (2)	Requisition by auditors to produce documents, etc.	Seventy rupees
Section 195	Requisition on livery stable keeper to produce books and accounts for inspection	Twenty rupees
Section 201	Requisition on occupier to forward list of companies, associations or bodies of individuals or persons carrying on profession, trade or calling in his premises	Twenty rupees
Section 262	Replacing or alteration of fittings for supply of unfiltered water for the flushing of privies or urinals	Five rupees
Section 268, sub-section (1)	Waste of water supplied to premises	Five rupees
Section 284	Requisition to fill up well	Five rupees
Section 292, sub-section (1)	Constructing railway, private street, wall or other structure over municipal drain	Ten rupees
Section 296, sub-section (1)	Unlawfully connecting house drain with municipal drain.	Ten rupees
Section 297	Requisition to connect one house drain with another	Five rupees
Section 299	Requisition to make house drain and provide appliances or fittings, or to remove house drain, etc.	Five rupees
Section 300	Requisition to make house drain ...	Five rupees
Section 305, clause (a)	Requisition to repair, flush, cleanse or empty house drain	Five rupees
Section 310, sub-section (3)	Keeping a public privy or urinal without license or suffering a licensed public privy or urinal to be in a filthy or noxious state	Fifty rupees
Section 312	Requisition to provide privy or urinal for building land or *bustee*	Five rupees
Section 313	Requisition to provide privies and urinals for premises used by large numbers of people	Twenty rupees
Section 320, sub-section (1)	Requisition to close, remove, renew or take other order with house drain, ventilation shaft or pipe, cesspool, house *gully*, privy or urinal	Five rupees
Section 325, sub-section (2)	Requisition to remove filth receptacle situated within fifty feet of tank, water-course or reservoir	Three rupees

1	2	3
Clauses	Subject	Fine which may be imposed
Schedule XVI rule 2 sub rule (1) proviso	Requisition to pay sum for removing sewage from service privy situated on upper floor	Twenty rupees
Schedule XVI rule 2, sub rule (2)	Requisition to convert service privy into a connected privy	Twenty rupees
Schedule XVI rule 3 sub rule (1)	Requisition to form a passage giving access to a privy from the street	Twenty rupees
Schedule XVI rule 16	Requisition to alter privy or urinal erected or re erected after commencement of Act	Twenty rupees
Schedule XVI rule 2 sub rule (2) rule 3 or rule 16 read with rule 17 sub rule (2)	Requisition to convert service privy into a connected privy to form a passage giving access to a privy from the street or to alter privy or urinal where the privy or urinal was erected before commencement of Act	Twenty rupees

Continuing offences in certain cases punishable after a first conviction with a daily fine

575. Whoever, after having been convicted of—

(*a*) contravening any provision of any of the clauses of this Act mentioned in the first column of the following table, or

(*b*) contravening any provision of any rule or regulation made under any of the said clauses, or

(*c*) failing to comply with any direction lawfully given to him or any requisiton lawfully made upon him under any of the said clauses, rules or regulations,

continues to contravene the said provision or to neglect to comply with the said direction or requisition, as the case may be,

shall be punished, for each day after the first during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the third column of the said table

Explanation—The entries in the second column of the following table headed Subject are not intended as definitions of the offences described in the clauses mentioned in the first column or even as abstracts of those clauses but are inserted merely as references to the subject of the clause the number of which is given in the first column

(*Part IX.—Chapter XLII.—Penalties.—Sec. 575.*)

1	2	3
Clauses	Subject	Daily fine which may be imposed
Section 143, sub section (*2*)	Requisition by auditors to produce documents, etc	Seventy rupees
Section 195 ..	Requisition on livery stable keeper to produce books and accounts for inspection	Twenty rupees
Section 201 .	Requisition on occupier to forward list of companies, associations or bodies of individuals or persons carrying on profession trade or calling in his premises	Twenty rupees
Section 262 .	Replacing or alteration of fittings for supply of unfiltered water for the flushing of privies or urinals	Five rupees
Section 268 sub section (*1*)	Waste of water supplied to premises	Five rupees
Section 284 .	Requisition to fill up well . .	Five rupees
Section 292, sub section (*1*)	Constructing railway, private street wall or other structure over municipal drain	Ten rupees
Section 296, sub section (*1*)	Unlawfully connecting house drain with municipal drain	Ten rupees
Section 297 ..	Requisition to connect one house drain with another	Five rupees
Section 299	Requisition to make house drain and provide appliances or fittings, or to remove house drain, etc	Five rupees
Section 300 .	Requisition to make house drain	Five rupees
Section 305, clause (*a*)	Requisition to repair, flush cleanse or empty house drain	Five rupees
Section 310, sub section (*3*)	Keeping a public privy or urinal without license or suffering a licensed public privy or urinal to be in a filthy or noxious state	Fifty rupees
Section 312 .	Requisition to provide privy or urinal for building land or *bustee*	Five rupees
Section 313 ..	Requisition to provide privies and urinals for premises used by large numbers of people	Twenty rupees
Section 320 sub section (*1*)	Requisition to close, remove renew or take other order with house drain, ventilation shaft or pipe, cesspool, house *gully*, privy or urinal	Five rupees
Section 325, sub-section (*2*)	Requisition to remove filth receptacle situated within fifty feet of tank, water course or reservoir	Three rupees

(Part IX.—Chapter XLIV.—Penalties.—Sec. 575.)

1	2	3
Clauses	Subject	Daily fine which may be imposed
Section 328 clause (b)	Requisition to alter, pave, etc, house drain, cess pool, privy or urinal	Twenty rupees
Section 340, sub section (1)	Erection or re erection of verandah supported by pillars resting on street	Fifty rupees
Section 340 sub section (2)	Placing roof on certain verandahs	Fifty rupees
Section 340, sub section (3)	Putting up verandahs, etc, to project over street without permission	Fifty rupees
Section 340 sub section (5)	Requisition to comply with condition subject to which permission was given to put up verandahs, etc, to project over street	Twenty rupees
Section 340, sub section (6)	Requisition to remove verandahs, etc, projecting over street	Twenty rupees
Section 341, sub section (1)	Requisition to remove or alter fixture ...	Twenty rupees
Section 343 ...	Requisition to repair, etc, building, tank etc, dangerous to passengers or persons living in the neighbourhood	Fifty rupees
Section 344, sub section (1)	Erection or maintenance of sky sign without permission	Fifty rupees
Section 352, sub section (1)	Requisition to set back building or wall ...	Twenty rupees.
Section 359 ..	Unlawfully making or laying out a private street	Fifty rupees
Section 361 sub section (1)	Requisition to level, etc, a private street ...	Ten rupees
Section 368, sub section (1)	Construction of external roofs or walls of buildings with inflammable material	Five rupees
Section 368 sub section (2)	Requisition to remove or alter external roof or wall made of inflammable material	Five rupees
Section 369 ...	Requisition to provide building with external doors or doorways, or to cause the external doors thereof to open outwards	Ten rupees
Section 408 ...	Requisition to carry out in *bustee* improvements indicated in schedule annexed to report of medical officer and engineer	Twenty rupees

(*Part IX.—Chapter XLIV—Penalties—Sec 575.*)

1	2	3
Clauses	Subjec	Daily fine which may be imposed
Section 421 ...	Requisition to cleanse *bustee* ...	Ten rupees
Section 426, sub section (1)	Requisition to alter situation of gas pipe or gas work laid in street	Ten rupees
Section 427, sub section (1)	Constructing railway, private street, building, wall or other structure over municipal gas pipe	Twenty rupees
Section 429, sub section (2)	Provision of land in *bustee* when required for deposit or disposal of rubbish etc	Three rupees
Section 436, sub section (5)	Allowing filthy matter to flow or soak from premises or create a nuisance	Ten rupees
Section 441 ...	Requisition to secure, enclose cleanse or clear building or land which is untenanted, filthy or a *nuisance*	Five rupees
Section 442, sub section (1)	Requisition to take down, repair or secure building or fixture in a ruinous state, etc	One hundred rupees
Section 445, sub section (1).	Requisition to abate overcrowding in building or room	Five rupees
Section 445, sub section (1)	Requisition to vacate overcrowded building or room	Five rupees
Section 446, sub section (1)	Requisition to execute works or take measures with respect to building or block of buildings in order to prevent risk of disease	Twenty rupees in the case of a masonry building or block of masonry buildings, and five rupees in the case of a hut or block of huts
Section 447, sub section (1)	Requisition to cleanse, fill up or de water well, tank or marshy ground, or to drain off or remove waste or stagnant water	Five rupees
Section 448, sub section (4)	Requisition to fill up excavation, cesspool, tank, well or pit unlawfully made	Five rupees
Section 451, sub section (1)	Requisition to stop work pending decision of Magistrate	Twenty rupees

(Part IX.—Chapter XLIV.—Penalties.—Sec. 575.)

1	2	3
Clauses	Subject	Daily fine which may be imposed
Section 443 ..	Keeping of animals	Five rupees
Section 455, sub section (5)	Keeping milch cattle in declared area for the purpose of supplying milk for sale	Five rupees
Section 455 sub section (6)	Removal from declared area of milch cattle kept for the purpose of supplying milk for sale	Five rupees
Section 457 .	Direction to discontinue use of building as a stable, cattle shed or cow house	Five rupees
Section 464, sub section (1)	Requisition for cleansing or ventilating factory etc, or for abating overcrowding or preventing danger therein.	Twenty five rupees
Section 466 sub section (1)	Carrying on certain trades without license, or contrary to terms of license	Fifty rupees
Section 466 sub section (2)	*Affixing board on licensed premises, showing licensee's name, etc*	*Five rupees*
Section 469, sub section (5)	Using premises in declared area for any purpose referred to or mentioned in section 466	*Five rupees.*
Section 470, sub section (1)	Requisition to discontinue use of premises for certain trades near dwelling houses	Fifty rupees
Section 472, sub section (1)	Fouling water in carrying on trade or manufacture	Two hundred rupees
Section 476 sub section (2)	Washing of clothes by washermen at unauthorized places	Five rupees
Section 481, sub-section (1)	Keeping open private market or using place as slaughter-house without license, or contrary to terms of license	Twenty five rupees
Section 482 .	Permitting place to be used as a private market without license	Fifty rupees
Section 485 sub section (1)	Requisition to pave and drain private market, *bazar private slaughter house or place set apart* for sacrifice of animals	Ten rupees.
Section 487 .	Requisition to set out, clear, widen, maintain or alter approaches, roads, paths or ways to or in a private market or *bazar*.	Ten rupees
Section 494 ...	Carrying on trade of butcher or seller of meat without license, or contrary to terms of license	Ten rupees

1	2	3
Clauses	Subject	Daily fine which may be imposed
Section 517, sub-section (1)	Requisition on occupier to vacate building or part thereof to admit of disinfection	Ten rupees
Section 539	Registration of place for disposal of the dead and depositing of plan in municipal office	Fifty rupees
Section 586, sub-section (6)	Production of licence or written permission	Ten rupees
Section 622, sub-section (3)	Occupier to afford facilities to owner for complying with Act, rules, by-laws, regulations and requisitions	Twenty rupees
Schedule XVI, rule 2, sub-rule (1)	Placing service privy on upper floor	Five rupees
Schedule XVI, rule 2, sub-rule (2)	Requisition to convert service privy into a connected privy	Five rupees
Schedule XVI, rule 3, sub-rule (1)	Requisition to form a passage giving access to a privy from the street	Five rupees
Schedule XVI, rule 16	Requisition to alter privy or urinal erected or re-erected after commencement of Act	Five rupees
Schedule XVI, rule 2, sub-rule (2), rule 3 or rule 16 read with rule 17, sub-rule (2)	Requisition to convert service privy into a connected privy, to form a passage giving access to a privy from the street or to alter privy or urinal when the privy or urinal was erected before commencement of Act	Five rupees

Punishment for contrave-ing regulati- made under section 525

576. Whoever contravenes any provision of any regulation made under section 525 shall be deemed to have committed an offence punishable under section 188[1] of the
860 Indian Penal Code.

Punishment for acquiring share or interest in contract etc., with th- Corporation (sections 27 and 66)

577. If the Chairman, Vice-Chairman or Deputy Chairman or any municipal officer or servant knowingly acquires, directly or indirectly by himself or a partner or employer or employé otherwise than as such Chairman, Vice-Chairman, Deputy Chairman, officer or servant, any share or interest in any contract or employment with, by, or on behalf of the Corporation,

[1] Printed in the General Acts, 1834-67, Ed. 1909, p. 295.

not being a share or interest such as clause (*ii*) or clause (*iv*) of section 39 it is permissible for a Commissioner to have without being thereby disqualified for being a Commissioner

he shall be deemed to have committed the offence made punishable by section 168[1] of the Indian Penal Code

Fine for not taking out certain licenses

578 (*1*) If any person owns or is in charge of any carriage or animal liable to the tax imposed under Chapter XIII or

if any company association or body of individuals or person exercises on or after the first day of July in any year any profession trade or calling referred to in Chapter XIV or

if any person exercises on or after the first day of June or the first day of December in any year any calling referred to in Chapter XV

without having the license prescribed by those Chapters respectively he or it shall be punished with fine which may extend to three times the amount payable in respect of such license and shall not be less than one and a half times such amount

(*2*) Such fine when levied shall be taken in full satisfaction of the demand on account of such license

(*3*) The provisions of this section shall apply to any person who having compounded for the payment of a certain sum under section 194 fails to pay such sum the amount due for a license being taken as the amount so compounded for

Fine for unlawfully commencing carrying on or completing building work

579. If the erection or re erection of any building—

(*a*) is commenced without obtaining the permission of the Chairman or (where an appeal or reference has been made to the General Committee) in contravention of any orders passed by the General Committee or

(*b*) is carried on or completed otherwise than in accordance with the particulars on which such permission or orders was or were based or

(*c*) is carried on or completed in breach of any provision contained in this Act or in any rules or by laws made hereunder or of any direction or requisition lawfully given or made under this Act or such rules or by laws or

if any alterations required by any notice issued under section 383 be not duly made or

if any alteration of or addition to any building or any other work made or done for any purpose in to or upon any building is commenced carried on or completed in breach of section 391 section 402 or section 403

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[1] Printed in the General Acts 1834-67 Ed 1903 p 289

the owner of the building shall be liable to fine which may extend in the case of a masonry building to five hundred rupees and in the case of a hut to fifty rupees, and to further fine which may extend in the case of a masonry building to one hundred rupees and in the case of a hut to ten rupees for each day during which the offence is continued after the first day

Fine for disobedience of direction for demolition or alteration where building work unlawfully commenced carried on or completed

580. If any person to whom a direction to demolish or alter work is given under clause (*i*) of section 449 fails to obey the same, he shall be liable to fine which may extend in the case of a masonry building to five hundred rupees and in the case of a hut to fifty rupees, and to further fine which may extend in the case of a masonry building to one hundred rupees and in the case of a hut to ten rupees for each day during which he so fails after the first day

Fine for disobedience of direction for demolition or alteration in other cases

581. If any person to whom a direction to demolish or alter is given under clause (*a*) of section 450 fails to obey the same, he shall be liable to fine which may extend to one hundred rupees and to further fine which may extend to fifty rupees for each day during which he so fails after the first day

Fine for putting building to other than declared use

582. When a building has been erected re-erected altered or added to after a statement has been made, under rule 31 or rule 47 of Schedule XVII that it was intended to use the building or any part thereof for any of the purposes specified in Schedule XVIII or as a stable, cattle-shed or cow-house, then any person putting the building or such part thereof to any use other than that so stated shall be liable —

(*a*) in the case of a masonry building to fine which may extend to five hundred rupees and to further fine which may extend to one hundred rupees for every day after the first during which he continues such use, and,

(*b*) in the case of a hut, to fine which may extend to fifty rupees, and to further fine which may extend to ten rupees for every day after the first during which he continues such use

Fine for using building for carrying on offensive trade without previous declaration

583. When a building has been erected re-erected altered, or added to under this Act without any statement having been made, under rule 31 or rule 47 of Schedule XVII that it was intended to use the building or any part thereof for any of the purposes specified in Schedule XVIII or as a stable, cattle-shed or cow-house, then any person using the building or any part thereof for any of those purposes shall be liable,—

(*a*) in the case of a masonry building to fine which may extend to five hundred rupees, and to further fine which may extend to one hundred rupees for every day after the first during which he continues such use, and

(b) in the case of a hut, to fine which may extend to fifty rupees, and to further fine which may extend to ten rupees for every day after the first during which he continues such use

Penalty on mehters etc withdrawing from work without notice

584. Any *mehter* or other servant of the Corporation referred to in section 438 who withdraws from his duties in contravention of that section shall be punished with fine which may extend to one hundred rupees, or with rigorous imprisonment for a term which may extend to three months, or with both, and shall forfeit any salary which may be due to him

Penalty for obstructing contractor or removing mark

585. Any person who, in contravention of section 617 or section 618, obstructs or molests any person with whom the Chairman has entered into a contract, or removes any mark, shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to two months

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PART X.

CHAPTER XLV

PROCEDURE

Licenses and Written Permissions

Duration conditions signature suspension revocation and production of licenses and written permissions

586. (1) Every license and written permission granted under this Act or any rule, by-law or regulation made hereunder shall specify the period for which and the restrictions and conditions subject to which the same is granted, and shall be signed by the Chairman

(2) For every such license or written permission a fee may be charged at such rate as may from time to time be fixed by the Chairman with the sanction of the Corporation

(3) Subject to the provisions of proviso (i) to section 181, any license or written permission granted under this Act or any rule, by-law or regulation made hereunder may at any time be suspended or revoked by the Chairman, if any of its restrictions or conditions is infringed or evaded by the grantee or if the grantee is convicted of a breach of any of the provisions of this Act or of any rule, by-law or regulation made hereunder in any matter to which such license or permission relates

(4) Any person whose license is suspended or revoked under sub-section (3) may appeal to the General Committee, whose decision shall be final

(*Part X.—Chapter XLV.—Procedure.—Secs 587-589*)

(*5*) When any such license or written permission is suspended or revoked, or when the period for which the same was granted has expired, the grantee shall for all purposes of this Act or any rule, by-law or regulation made hereunder be deemed to be without a license or written permission until the Chairman's order for suspending or revoking the license or written permission is cancelled by him, or until the license or written permission is renewed, as the case may be

(*6*) Every grantee of any such license or written permission shall at all reasonable times, while such license or written permission remains in force, produce the same at the request of the Chairman.

Public Notices and Advertisements

Public notices how to be made known

587. Every public notice given under this Act or any rule, by-law or regulation made hereunder shall be in writing under the signature of the Chairman,

and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of drum or by advertisement in local newspapers, or by any two or more of these means, and by any other means that the Chairman may think fit

Newspapers in which advertisements or notices to be published

588. Whenever it is provided by this Act or any rule, by-law or regulation made hereunder that notice shall be given by advertisement in local newspapers, or that a notification or any information shall be published in local newspapers, such notice, notification or information shall be inserted, if practicable in at least two English newspapers and two vernacular newspapers published in Calcutta

Evidence

Proof of consent etc, of municipal authorities or Municipal Officer

589. Whenever under this Act or any rule by law or regulation made hereunder the doing or the omitting to do any thing or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of—

(*a*) the Corporation, the General Committee or the Chairman, or

(*b*) any municipal officer,

a written document, signed in case (*a*) by the Chairman and in case (*b*) by the said municipal officer, purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction. shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion or satisfaction.

Signature and Service of Notices, etc

Signature on notices etc may be stamped

590. (*1*) Every license, written permission, notice, bill, schedule, summons or other document which is required by this Act or by any rule by-law or regulation made hereunder to bear the signature of the Chairman or of any municipal officer, shall be deemed to be properly signed if it bears a facsimile of the signature of the Chairman or of such municipal officer, as the case may be, stamped thereupon

(*2*) Nothing in sub-section (*1*) shall be deemed to apply to a cheque drawn upon the Municipal Funds under section 112

Notices etc by whom to be served or presented

591. Notices bills, schedules summonses and other documents required by this Act or by any rule, by-law or regulation made hereunder to be served upon, or issued, presented or given to, any person, shall be so served, issued, presented or given by municipal officers or servants or by other persons authorized by the Chairman in this behalf

Service how to be effected otherwise than on owner or occupier of premises

592. When any notice, bill, schedule, summons or other document is required by this Act, or by any rule, by-law or regulation made hereunder to be served upon or issued or presented to any person otherwise than as owner or occupier of any building or land, such service, issue or presentation shall be effected—

(*a*) by giving or tendering such document to such person or,

(*b*) if such person is not found, by leaving such document at his last known place of abode in Calcutta, or by giving or tendering the same to some adult male member or servant of his family, or,

(*c*) if such person does not reside in Calcutta, and his address elsewhere is known to the Chairman, by forwarding such document to him by post under cover bearing the said address, or,

(*d*) if none of the means aforesaid be available, by causing a notice on yellow paper in the form prescribed in Schedule XXI, or in a form to the like effect, and setting forth the substance of such document, to be affixed on some conspicuous part of the building or land, if any, to which the document relates

Service how to be effected on owner or occupier of premises

593. When any notice, bill, schedule, summons or other document is required by this Act, or by any rule, by-law or regulation made hereunder, to be served upon or issued or presented to any person as owner or occupier of any building or land it shall not be necessary to name the owner or occupier in the document, and the service, issue or presentation thereof shall be effected—

(*a*) by giving or tendering such document to the owner or occupier or, if there be more than one owner or

occupier, to any one of the owners or occupiers of such building or land or

(*b*) if the owner or occupier is not found, by giving or tendering such document to some adult male member or servant of the family of the owner or occupier or of any one of the owners or occupiers or

(*c*) if none of the means aforesaid be available by causing a notice on yellow paper in the form prescribed in Schedule XXI, or in a form to the like effect and setting forth the substance of such document to be affixed on some conspicuous part of the building or land to which the document relates

594. Nothing in sections 591 592 and 593 shall apply to any summons issued under this Act by a Magistrate

Sections 591 to 593 not to apply to Magistrate s summons

Powers of Entry

595 The Chairman may enter into or upon any building or land with or without assistants or workmen in order to make any inspection survey measurement valuation or inquiry or execute any work which is authorized by this Act or by any rule by-law or regulation made hereunder or which it is necessary for any of the purposes or in pursuance of any of the provisions of this Act or of any such rule by-law or regulation, to make or execute

Power of entry to inspect survey or execute work

Provided as follows —

(*a*) except when it is in this Act otherwise expressly provided no such entry shall be made between sunset and sunrise

(*b*) except when it is in this Act otherwise expressly provided no dwelling house and no public building or hut which is used as a dwelling place shall be so entered unless with the consent of the occupier thereof without giving the said occupier at least twenty four hours previous written notice of the intention to make such entry

(*c*) sufficient notice shall in every instance be given even when any premises may otherwise be entered without notice to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed

(*d*) due regard shall always be had so far as may be compatible with the exigencies of the purpose for which the entry is made to the social and religious usages of the occupants of the premises entered

Power of entry on lands adjacent to works.

596. (*1*) The Chairman may enter upon any land adjoining or within one hundred yards of any works authorized by this Act or any rule, by-law or regulation made hereunder, for the purpose of depositing upon such land any soil, gravel, sand, lime, bricks, stone or other materials, or of obtaining access to such works, or for any other purpose connected with the carrying on of such works.

(*2*) The Chairman shall, before entering upon any land under sub-section (*1*), give the owner and occupier three days' previous written notice of his intention to make such entry, and of the purpose thereof, and shall, if so required by the owner or occupier, set apart by sufficient fences so much of the land as may be required for the purposes mentioned in or referred to in the said sub-section.

(*3*) The Chairman shall not be bound to make any payment, tender or deposit before entering upon any land under sub-section (*1*), but shall do as little damage as may be, and shall pay compensation to the owner and occupier of the land for such entry and for any temporary damage that may be done in consequence thereof, and shall also pay compensation to the said owner for any permanent damage resulting therefrom.

(*4*) If such owner or occupier is dissatisfied with the amount of compensation paid to him by the Chairman, he may appeal to the General Committee, whose decision shall be final.

Enforcement of Orders to execute Work, etc.

Time for complying with requisition or order and power to enforce requisition or order in default of person directed.

597. (*1*) When any requisition or order is made under this Act, or under any rule, by-law or regulation made hereunder, by written notice issued by any municipal authority or by any municipal officer empowered under section 18 in this behalf, a reasonable period shall be prescribed in such notice for carrying such requisition or order into effect.

(*2*) If in any case not provided for in section 409 or section 418, sub-section (*5*), such requisition or order or any portion thereof is not complied with within the period so prescribed, the Chairman may, subject to the provisions of sections 598, 599 and 600, take such measures or cause such work to be executed or such things to be done as may, in his opinion, be necessary for giving due effect to the requisition or order so made; and unless it is in this Act otherwise expressly provided, the expenses thereof shall be paid by the person or by any one of the persons to whom such requisition or order was addressed.

(*3*) The Chairman may take any measure, execute any work or cause anything to be done under this section whether or not the person who has failed to comply with the requisition or order is liable to punishment or has been prosecuted or sentenced to any punishment for such failure.

(Part X—Chapter XLV—Procedure—Secs 598-601)

598. (*1*) When any notice referred to in section 597 has been served on any person, he may send to the authority or officer by whom it was issued a written objection setting forth any reasons which he may desire to urge for the withdrawal or modification of the notice

Submission of objections to complying with notice

(*2*) If any such objection be sent in time to admit of orders being passed upon it before the expiration of the period prescribed in the notice, the execution of the work may be postponed until the authority or officer by whom the notice was issued has passed orders on the objection

(*3*) If any such objection be sent in time to admit of the objector being heard in person before the expiration of the period prescribed in the notice, he shall be entitled to be so heard, and the objection shall be considered in his presence, at a time to be fixed by notice issued in this behalf

599. (*1*) Instead of sending an objection under section 598, or at the time of sending such an objection, any person on whom a notice referred to in section 597 has been served may apply to the authority or officer by whom the notice was issued for an estimate of the expenses which would be incurred if the notice were enforced by a municipal authority, and on receipt of such an application, the said authority or officer shall supply such estimate

Power to require estimate of expenses of work

(*2*) If the said authority or officer fails to supply such estimate, not more than five rupees shall be charged to the said person for any work executed by a municipal authority by way of enforcing the said notice

600. (*1*) If any estimate supplied under section 599 exceeds three hundred rupees, no work shall be executed by a municipal authority as aforesaid until the expiration of ten days from the date on which the estimate was so supplied

Reference of objections to Sub Committee or General Committee

(*2*) Within a period of seven days from the said date the said person may apply in writing to have his objections to the execution of the work or to the estimated cost of the work determined by a Sub Committee appointed under section 95 or by the General Committee, and, if such application be made within the said period no work shall be executed by any municipal authority by way of enforcing the said notice until the Sub-Committee or the General Committee, as the case may be, have disposed of such objections

Recovery of Expenses

601. (*1*) When a written notice issued under section 446 sub-section (*1*), for the removal of a building or block of buildings is not complied with, and the building or block has been demolished in pursuance of an order made by a Magistrate under section 150, or

Recovery of expenses of demolishing buildings, etc

when the Chairman removes any wall, fence, rail, post platform or other obstruction, projection or encroachment or

any materials or goods, in exercise of the powers conferred by section 342,

the expenses incurred in effecting such demolition or removal shall be recoverable by sale of the materials or other things removed, and, if the proceeds of such sale do not suffice, the balance shall be paid by the owner of the said materials or things.

(*2*) But, if the expenses of the demolition or removal are in any case paid before the said materials or things are sold, the Chairman shall restore the materials or things to the owner thereof on his claiming the same at any time before they are sold or otherwise disposed of, and on his paying all other expenses, if any, incurred by the Chairman in respect thereof or in respect of the intended sale or disposal thereof.

(*3*) If the said materials or things are not claimed by the owner thereof, they shall be sold by public auction, or otherwise disposed of as the Chairman may think fit, as soon as conveniently may be after one month from the date of their removal, whether the expenses of the removal have in the meantime been paid or not, and the proceeds, if any, of the sale or other disposal, remaining after defraying therefrom the costs of the sale or other disposal, and, if necessary, of the removal, shall, if not claimed by the owner within two months, be paid to the credit of the Municipal Funds, and shall be the property of the Corporation.

Expenses to be payable on demand and recoverable under Chapter XVIII.

602. (*1*) Whenever under this Act or any rule, by-law or regulation made hereunder the expenses of any work executed or of any measure taken or thing done by or under the order of any municipal authority, any Magistrate, or any municipal officer empowered under section 18 in this behalf are payable by any person, the same shall be payable on demand.

(*2*) If not paid on demand, the said expenses shall be recoverable by the Chairman subject to the provisions of sub-section (*2*) of section 616, by distress and sale of the movable property of the defaulter in the manner provided by Chapter XVIII.

Apportionment of expenses between owners or occupiers.

603. (*1*) If the said expenses are payable by more than one owner, and the names of all such owners are entered in the assessment-book, the Chairman may apportion the expenses among such owners.

(*2*) If the said expenses are payable by more than one occupier, and all such occupiers are known, the Chairman may apportion the expenses among such occupiers.

Recovery from occupier of expenses payable by owner.

604. If the said expenses are due in respect of some work executed or thing done to, upon or in connection with, some building or land, or of some measure taken with respect to some building or land, and the defaulter is the owner of such building or land, the amount thereof may be demanded from any person who at any time before the said expenses

have been paid occupies the said building or land under the said owner, and, in the event of the said person failing to pay the same, they may be recovered by distress and sale of the movable property of the said person in the manner provided by Chapter XVIII

Provided as follows —

(a) unless the said person neglects or refuses, after request by the Chairman, truly to disclose the amount of the rent payable by him in respect of the said building or land and the name and address of the person to whom the same is payable, the said person shall not be liable to pay on account of the said expenses any larger sum than, up to the time of demand, is payable by him to the owner on account of rent of the said building or land, but it shall rest upon the said person to prove that the amount of the expenses demanded from him is in excess of the sum payable by him to the owner,

(b) the said person shall be entitled to credit in account with the owner for any sum paid by or recovered from him on account of the said expenses,

(c) nothing in the foregoing provisions of this section shall affect any agreement made between the said person and the owner of the building or land in his occupation respecting the payment of the expenses of any such work, thing or measure as aforesaid

605. Instead of recovering any such expenses as aforesaid in any manner hereinbefore provided, the Chairman may, if he thinks fit, and with the approval of the General Committee, take an agreement, from the person liable for the payment thereof, to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon at the rate of six *per centum per annum*, within a period of not more than five years

Power to accept agreement for payment of expenses in instalments

606. If the expenses to be recovered have been incurred in respect of any work mentioned in section 260, section 297, section 299, section 301, clause (b) section 312, section 320, section 361, section 417, section 485 or section 487, clause (a), the Chairman may, if he thinks fit, and with the approval of the Corporation, declare such expenses to be improvement expenses

Power to declare certain expenses to be improvement expenses

607. (1) Improvement expenses shall be a charge on the premises in respect of which or for the benefit of which the same have been incurred, and shall be recoverable in instalments of such amounts, not being less for any premises than

Improvement expenses how recoverable and by whom payable

twelve rupees *per annum*, and at such intervals, as will suffice to discharge such expenses, together with interest thereon at the rate of six *per centum per annum*, within such period not exceeding thirty years as the Chairman, with the approval of the Corporation, may in each case determine.

(2) The said instalments shall be payable by the occupier of the premises on which the expenses are so charged,

or in the event of the said premises becoming unoccupied at any time before the expiration of the period fixed for the payment of such expenses, or before the same, with interest as aforesaid are fully paid off, by the owner for the time being of the said premises, so long as the same continue to be unoccupied.

Deduction from rent of part of improvement expenses.

608. (1) Where the occupier by whom any improvement expenses are paid holds the premises, on which the expenses are charged, at a rent not less than the letting-value, he shall be entitled to deduct three-fourths of the amount paid by him on account of such expenses from the rent payable by him to his landlord,

and if he holds at a rent less than the letting-value, he shall be entitled to deduct from the rent so payable by him such proportion of three-fourths of the amount paid by him on account of such expenses as his rent bears to the letting-value.

(2) If the landlord from whose rent any deduction is so made is himself liable to the payment of rent for the premises in respect of which the deduction is made, and holds the same for a term of which less than twenty years is unexpired (but not otherwise), he may deduct from the rent so payable by him such proportion of the sum deducted from the rent payable to him as the rent payable by him bears to the rent payable to him; and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof:

Provided that nothing in this sub-section shall be construed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

Power to redeem charge for improvement expenses.

609. At any time before the expiration of the period for the payment of any improvement expenses, the owner or occupier of the premises on which they are charged may redeem such charge by paying to the Chairman such part of the said expenses as have not been defrayed by sums already levied in respect of the same.

Recovery of instalments due under section 605 or 607.

610. Any instalment payable under section 605 or section 607 which is not paid when the same becomes due may be recovered by the Chairman by distress and sale, in the manner provided by Chapter XVIII, of the movable property of the person by whom it is due.

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(Part X —Chapter XLV—Procedure—Secs 611 614)

Execution of work by occupier in default of owner and deduction of expenses from rent

611 Whenever the owner of any building or land fails to execute any work which he is required to execute under this Act or under any rule by law or regulation made hereunder the occupier if any of such building or land may with the approval of the Chairman execute the said work and he shall be entitled to recover from the owner the reasonable expenses incurred by him in so doing and may deduct the amount thereof from the rent which from time to time becomes due by him to the owner

Recovery from owner of cost of work executed by or in default of occupier

612. When any work is executed by the occupier of any building or land on the requisition of any municipal authority or

when the cost of any work executed by any municipal authority is recovered from such occupier then if the Chairman certifies that the expenses of such work or such cost as the case may be ought to be borne by the owner of the building or land the said occupier may deduct the amount thereof from the rent payable to such owner or may recover the same from him in any Court of competent jurisdiction

Relief to agents and trustees

613. *(1)* When any person by reason of his receiving the rent of immovable property as agent or trustee or of his being as agent or trustee the person who would receive the rent if the property were let to a tenant would under this Act be bound to discharge any obligation imposed by this Act or any rule by law or regulation made hereunder on the owner of the property and for the discharge of which money is required he shall not be bound to discharge the obligation unless he has or but for his own improper act or default might have had in his hands funds belonging to the owner sufficient for the purpose

(2) The burden of proving the facts entitling an agent or trustee to relief under this section shall lie on him

(3) When any agent or trustee has claimed and established his right to relief under this section the Corporation may give him notice to apply to the discharge of such obligation as aforesaid the first moneys which shall come to his hands on behalf or for the use of the owner and should he fail to comply with such notice he shall be deemed to be personally liable to discharge such obligation

Payment of Compensation

General power of Chairman to pay compensation

614. In any case not otherwise expressly provided for in this Act the Chairman may with the approval of the General Committee pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act or any rule by law or regulation made hereunder in any municipal authority officer or servant

twelve rupees *per annum*, and at such intervals, as will suffice to discharge such expenses, together with interest thereon at the rate of six *per centum per annum*, within such period not exceeding thirty years as the Chairman, with the approval of the Corporation, may in each case determine

(2) The said instalments shall be payable by the occupier of the premises on which the expenses are so charged,

or, in the event of the said premises becoming unoccupied at any time before the expiration of the period fixed for the payment of such expenses, or before the same, with interest as aforesaid, are fully paid off, by the owner for the time being of the said premises, so long as the same continue to be unoccupied

Deduction from rent of part of improvement expenses

608. (*1*) Where the occupier by whom any improvement expenses are paid holds the premises, on which the expenses are charged, at a rent not less than the letting-value, he shall be entitled to deduct three-fourths of the amount paid by him on account of such expenses from the rent payable by him to his landlord,

and, if he holds at a rent less than the letting-value, he shall be entitled to deduct from the rent so payable by him such proportion of three fourths of the amount paid by him on account of such expenses as his rent bears to the letting-value

(*2*) If the landlord from whose rent any deduction is so made is himself liable to the payment of rent for the premises in respect of which the deduction is made, and holds the same for a term of which less than twenty years is unexpired (but not otherwise), he may deduct from the rent so payable by him such proportion of the sum deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof

Provided that nothing in this sub-section shall be construed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him

Power to redeem charge for improvement expenses

609. At any time before the expiration of the period for the payment of any improvement expenses, the owner or occupier of the premises on which they are charged may redeem such charge by paying to the Chairman such part of the said expenses as have not been defrayed by sums already levied in respect of the same.

Recovery of instalments due under section 605 or 607

610. Any instalment payable under section 605 or section 607 which is not paid when the same becomes due may be recovered by the Chairman by distress and sale, in the manner provided by Chapter XVIII, of the movable property of the person by whom it is due.

(Part X.—Chapter XLV.—Procedure—Secs 611-614)

611. Whenever the owner of any building or land fails to execute any work which he is required to execute under this Act or under any rule, by-law or regulation made hereunder, the occupier, if any, of such building or land may, with the approval of the Chairman, execute the said work, and he shall be entitled to recover from the owner the reasonable expenses incurred by him in so doing, and may deduct the amount thereof from the rent which from time to time becomes due by him to the owner — Execution of work by occupier in default of owner, and deduction of expenses from rent

612. When any work is executed by the occupier of any building or land on the requisition of any municipal authority, or — Recovery from owner of cost of work executed by or in default of occupier

when the cost of any work executed by any municipal authority is recovered from such occupier, then, if the Chairman certifies that the expenses of such work, or such cost, as the case may be, ought to be borne by the owner of the building or land, the said occupier may deduct the amount thereof from the rent payable to such owner, or may recover the same from him in any Court of competent jurisdiction

613. *(1)* When any person, by reason of his receiving the rent of immovable property as agent or trustee, or of his being as agent or trustee the person who would receive the rent if the property were let to a tenant, would, under this Act, be bound to discharge any obligation imposed by this Act or any rule, by-law or regulation made hereunder on the owner of the property and for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, in his hands funds belonging to the owner sufficient for the purpose — Relief to agents and trustees

(2) The burden of proving the facts entitling an agent or trustee to relief under this section shall lie on him

(3) When any agent or trustee has claimed and established his right to relief under this section, the Corporation may give him notice to apply to the discharge of such obligation as aforesaid the first moneys which shall come to his hands on behalf or for the use of the owner, and should he fail to comply with such notice he shall be deemed to be personally liable to discharge such obligation

Payment of Compensation

614. In any case not otherwise expressly provided for in this Act, the Chairman may, with the approval of the General Committee, pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act or any rule by-law or regulation made hereunder in any municipal authority, officer or servant. — General power of Chairman to pay compensation

Compensation to be paid by offenders for damage caused by them.

615. (*1*) If, on account of any act or omission, any person has been convicted of an offence against this Act or any rule, by-law or regulation made hereunder, and, by reason of the same act or omission of the said person, damage has occurred to any property of the Corporation, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

(*2*) In the event of dispute, the amount of compensation payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence; and, on non-payment of the amount of compensation so determined, the same shall be recovered under a warrant from the said Magistrate as if it were a fine inflicted by him on the person liable therefor.

Recovery of Expenses or Compensation in case of Dispute.

Reference by Chairman to Small Cause Court or High Court in certain cases.

616. (*1*) If, when the Chairman demands payment of any expenses under section 602, his right to demand the same or the amount of the demand is disputed, the Chairman shall refer the case for the determination of the Court of Small Causes, or, if the amount involved exceeds two thousand rupees, to the High Court.

(*2*) The Chairman shall, pending the decision on any such reference, defer further proceedings for the recovery of the sum claimed by him, and shall, after the decision, proceed to recover only such amount, if any, as is thereby declared to be due.

Application to Small Cause Court in other cases.

617. Where, in any case not provided for by section 616, any municipal authority or person is required by or under this Act or any rule, by-law or regulation made hereunder to pay any expenses or any compensation, the amount to be so paid and, if necessary, the apportionment of the same, shall, in case of dispute, be determined, except as is otherwise provided in section 505, sub-section (*3*), section 518, section 596, section 615 and section 632, and in the Land Acquisition Act, 1894, [1] as amended by section 557 of this Act, by the Court of Small Causes, on application being made to it for this purpose at any time within one year from the date when such expenses or compensation first become claimable. 1 of 1

Recovery of sums ascertained under section 617 to be due.

618. If the amount of any expenses or compensation ascertained in accordance with section 617 is not paid on demand by the person liable to pay the same, it shall be recoverable as if the same were due under a decree of the Court of Small Causes.

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[1] Printed in the General Acts, 1887-97, Ed. 1898, p. 267.

of 1899.]

(*Part X.—Chapter XLV.—Procedure.—Secs. 619-622.*)

619. Instead of proceeding in any manner hereinbefore prescribed for the recovery of any expenses or compensation of which the amount due has been ascertained as hereinbefore provided, or after such proceedings have been taken unsuccessfully or with only partial success, the sum due or the balance of the sum due, as the case may be, may be recovered by suit brought in any Court of competent jurisdiction against the person liable for the same. Power to sue.

Recovery of certain dues.

620. Any sum due to the Corporation— Recovery of certain dues.

(*a*) for water supplied or taken under section 251 or section 279, sub-section (*1*), or

(*b*) on account of any fee imposed under section 131, clause (*b*), section 458, sub-section (*2*), section 475 or section 520, clause (*a*), or

(*c*) on account of any fee imposed under sub-section (*2*) of section 481 in respect of any place set apart under proviso (*iii*) to sub-section (*1*) of that section,

shall be recoverable in the manner provided by Chapter XVIII for the recovery of the consolidated rate.

Limitation of time for appeal.

621. In any case in which no time is prescribed by the foregoing provisions of this Act for the presentation of an appeal allowed thereunder, such appeal, subject to the provisions of section 5 of the Indian Limitation Act, 1877[1], must be presented within thirty days after the date of the order or proceeding against which the appeal is made. Limitation of time for appeal.

Obstruction of owner by occupier.

622. (*1*) If the owner of any building or land is prevented by the occupier thereof from complying with Application to Chief Judge by owner when occupier prevents his complying with Act, etc.

any provision of this Act or any rule, by-law or regulation made hereunder, or

any requisition made hereunder or under any such rule, by-law or regulation,

in respect of such building or land,

the owner may apply to the Chief Judge of the Court of Small Causes of Calcutta.

(2) The said Chief Judge on receipt of any such application may make a written order requiring the occupier of the building or land to afford all reasonable facilities to the owner for complying with the said provision or requisition and may also if he thinks fit direct that the costs of such application and order be paid by the occupier

(3) After eight days from the date of any such order it shall be incumbent on the said occupier to afford all such reasonable facilities to the owner for the purpose aforesaid as may be prescribed in the said order and in the event of his continued refusal so to do the owner shall be discharged during the continuance of such refusal from any liability which he would otherwise incur by reason of his failure to comply with the said provision or requisition

Proceedings before Courts of Small Causes

General powers and procedure of Small Cause Courts

623 (1) For the purposes of any inquiry or proceeding under this Act a Court of Small Causes may summon and enforce the attendance of witnesses and compel them to give evidence and compel the production of documents by the same means and as far as is possible in the same manner as is provided by the Presidency Small Cause Courts Act 1882[1] or the Provincial Small Causes Courts Act 1887[2] as the case may be and in all matters relating to any such inquiry or proceeding the said Court shall be guided generally by the provisions of the said Presidency Small Cause Courts Act or the said Provincial Small Causes Courts Act as the case may be so far as the same are applicable 15 of 1882 / 9 of 1887

(2) If in any such inquiry or proceeding the person against whom the complaint or application has been made fails to appear notwithstanding that he has been duly summoned for this purpose the said Court may hear and determine the case in his absence

(3) The costs of every such inquiry or proceeding as determined by the said Court shall be payable by such parties and in such proportions as the said Court may direct and the amount thereof shall if necessary be recoverable as if the same were due under a decree of the Court

Fees in proceedings before Small Cause Courts

624 (1) The Local Government may by notification[3] in the Calcutta Gazette prescribe what fee if any shall be paid—

(a) on any application appeal or reference made under this Act to a Court of Small Causes and

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1 [illegible]
2 [illegible]
3 [illegible] see the Bengal Local Statutory [illegible]

(b) previous to the issue, in any inquiry or proceeding of any such Court under this Act, of any summons or other process

Provided that the fees, if any, prescribed under clause (a) shall not in cases in which the value of the claim or subject-matter is capable of being estimated in money, exceed the fees at the time being levied, under the provisions of the Presidency Small Cause Courts Act, 1882[1], in cases in which the value of the claim or subject-matter is of like amount

(2) The Local Government may, by a like notification, determine by what person any fee prescribed under clause (a) shall be payable

(3) No application, appeal or reference shall be received by any Court of Small Causes until the fee, if any, prescribed therefor under clause (a) has been paid

Provided that the Court may, whenever it thinks fit, receive an application, appeal or reference made by or on behalf of a poor person, and may issue process on behalf of any such person, without payment or on part payment of the fees prescribed under this section

Repayment of half fees on settlement before hearing

625. Whenever any application, appeal or reference made to a Court of Small Causes under this Act is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the said Court to the parties by whom the same have respectively been paid

Application of sections 623 to 625 to the Chief Judge

626. The expression "a Court of Small Causes" as used in sections 623, 624 and 625, shall be deemed to include the Chief Judge of the Court of Small Causes of Calcutta

Power of the Chief Judge to delegate certain of his powers and to make rules

627. The Chief Judge of the Court of Small Causes of Calcutta may—

(a) delegate either generally or specially, to any other Judge of the said Court his power to receive applications under this Act and to discharge any other duty in connection with such applications except the hearing and adjudication thereof, and

(b) make rules providing for any matter connected with the exercise of the jurisdiction conferred upon him by this Act which is not herein specifically provided for

Proceedings before Magistrates

Municipal Magistrates

628. (1) The Local Government may appoint[2] one or more Magistrates for the trial of offences against this Act and the

[1] Printed in the General Acts 1879-86 Ed 1909, p 400

[2] For a reference to an order made under section 628 *see* the Bengal Local Statutory Rules and Orders, 1 19 Vol I Pt VI

rules, by-laws and regulations made hereunder, and may prescribe the times and places at which such Magistrate or Magistrates shall sit for the despatch of business

(2) Such Magistrates shall be called Municipal Magistrates, and shall be paid such salary out of the Municipal Funds as may from time to time be fixed by the Local Government

(3) Each such Magistrate shall have jurisdiction over the whole of Calcutta

Cognizance of offences

629. All offences against this Act, or against any rule, by-law or regulation made hereunder, whether committed within or without Calcutta, shall be cognizable by a Magistrate having jurisdiction in Calcutta; and such Magistrate shall not be deemed to be incapable of taking cognizance of any such offence, or of any offence against any enactment hereby repealed, by reason only of his being liable to pay any municipal rate or other tax or of his being benefited by the Municipal Funds to the credit of which any fine imposed by him will be payable

Power to hear case in absence of accused when summoned to appear

630. If any person summoned to appear before a Magistrate to answer a charge of an offence against this Act or any rule, by-law or regulation made hereunder fails to appear at the time and place mentioned in the summons, the Magistrate may, if service of the summons is proved to his satisfaction and if no sufficient cause is shown for the non-appearance of such person, hear and determine the case in his absence.

Limitation of time for prosecution

631. (1) No person shall be liable to punishment for any offence against this Act or any rule, by-law or regulation made hereunder, unless complaint of such offence is made before a Magistrate within three months, or, if the offence be against the provisions of section 156, within six months, next after the commission of such offence

(2) Failure to take out a license under this Act shall be deemed, for the purposes of sub-section (1), to be a continuing offence until the expiration of the period for which the license is required to be taken out

Complaints concerning nuisances

632 (1) The Chairman or any person who resides in Calcutta may complain to a Magistrate of the existence of any nuisance.

(2) Upon receipt of any such complaint, the Magistrate, after making such inquiry as he thinks necessary, may, if he sees fit by written order direct the Chairman—

(a) to put in force any of the provisions of this Act or the rules, by-laws or regulations made hereunder, or to take such measures as to such Magistrate may seem practicable and reasonable for preventing, abating, diminishing or remedying such nuisance;

(b) to recover the expenses of so doing from any person specified in this behalf in such order; and

(*c*) to pay to the complainant such reasonable costs of and relating to the said complaint and order as the said Magistrate shall determine, inclusive of compensation for the complainant's loss of time in prosecuting such complaint.

(*3*) It shall be incumbent on the Chairman to obey every such order.

(*4*) Nothing in this section shall be taken to exempt any person committing a nuisance from liability to be proceeded against under any other law in respect of such nuisance:

Provided that no person shall be punished twice for the same offence.

Legal Proceedings.

633. The Chairman may, subject to the control of the Corporation,— Powers of Chairman as to institution, etc., of legal proceedings and obtaining legal advice.

(*a*) institute, defend or withdraw from legal proceedings under this Act or any rule, by-law or regulation made hereunder;

(*b*) compound any offence against this Act or any rule, by-law or regulation made hereunder which, under any law for the time being in force, may lawfully be compounded;

(*c*) admit, compromise or withdraw any claim made under this Act or any rule, by-law or regulation made hereunder; and

(*d*) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain, or as he may be desired by the Corporation or the General Committee to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vesting in or imposed upon any municipal authority, officer or servant.

634. (*1*) No suit shall be instituted against any municipal authority, officer or servant, or any person acting under the direction of any municipal authority, officer or servant, in respect of any act purporting to be done under this Act or any rule, by-law or regulation made hereunder, until the expiration of one month next after written notice has been delivered or left at the municipal office or the place of abode of such officer, servant or person, stating the cause of action and the name and place of abode of the intending plaintiff: and the plaint must contain a statement that such notice has been so delivered or left. Notice, limitation and tender of amends in suit against municipal authority, etc.

(2) Every such suit must be commenced within three months next after the accrual of the right to sue

(3) If any authority or person to whom any notice is given under sub section (1) tenders sufficient amends to the plaintiff before the suit is instituted the suit shall be dismissed

(4) If no such tender be made the defendant may pay into Court such sum of money as it or he thinks fit and thereupon such proceedings shall be had as in other cases in which defendants are allowed to pay money into Court

(5) Nothing in the foregoing sub-sections shall apply to any suit instituted under section 54[1] of the Specific Relief Act 1877 I of 1877

Indemnity to municipal authorities etc

635 No suit shall be maintainable against any municipal authority officer or servant or any person acting under the direction of any municipal authority officer or servant or of a Magistrate in respect of anything lawfully and in good faith and with due care and attention done under this Act or any rule by law or regulation made hereunder

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PART XI.

CHAPTER XLVI

SUPPLEMENTAL PROVISIONS

Alteration of limits of Calcutta

Notification of intention to alter limits of Calcutta

636 The Local Government may by notification published in the Calcutta Gazette and in such other manner as the Local Government may determine declare its intention—

(a) to exclude from Calcutta any local area (not being within the ordinary original jurisdiction of the High Court at Fort William in Bengal) comprised therein and defined in the notification or

(b) at the request of the Corporation to include within Calcutta any local area (other than Howrah) in the vicinity of the same and defined in the notification

Provided that where the local area is a military cantonment or part of a military cantonment a notification shall not be published under this section in respect of it without the previous sanction of the Government of India

Alteration of limits after consideration of objections

637 (1) Any inhabitant of Calcutta or of a local area in respect of which a notification has been published under section 636 may if he objects to the alteration proposed submit his objection in writing to the Local Government

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[1] Printed in the General Acts 1868-78 Ed 1909 p 50

within six weeks from the publication of the notification in the Calcutta Gazette; and the Local Government shall take such objection into consideration

(2) When six weeks from the publication of the notification in the Calcutta Gazette have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by notification in the Calcutta Gazette, exclude the local area from Calcutta, or include it therein, as the case may be

638. (1) When a local area is excluded from Calcutta under section 637,— Effect of exclusion of local area from Calcutta

(a) this Act, and all rules, by-laws regulations orders, directions and powers made, issued or conferred hereunder, shall cease to apply thereto, and

(b) the Local Government shall, after consulting the Corporation, frame a scheme determining what portion of the balance of the Municipal Funds and other property vested in the Corporation shall vest in Her Majesty for the benefit of the local area, and in what manner the liability of the Corporation shall be apportioned between the Corporation and the Secretary of State for India in Council, and on the publication of the scheme in the Calcutta Gazette, the property and liabilities shall vest and be apportioned accordingly

(2) All property vested in Her Majesty under sub-section (1) shall be applied, under the orders of the Local Government, to discharging the liabilities imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the safety, health, welfare or convenience of the inhabitants of the said local area

639. When any local area is included in Calcutta under section 637, this Act, and, except as the Local Government may otherwise by notification in the Calcutta Gazette direct all rules, by-laws, regulations, orders, directions and powers made, issued or conferred hereunder, and in force throughout Calcutta at the time the local area is so included shall apply in such area Effect of including local area in Calcutta

Extension of Act to Howrah

640. The Local Government may, by notification published in the Calcutta Gazette and in such other manner as the Local Government may determine, declare its intention to extend to the town of Howrah, or any part thereof, subject Notification of intention to extend Act to Howrah

to the modifications and restrictions (if any) specified in such notification all or any portions of this Act which do not already apply thereto

Extension of Act after considering objections

641. (*1*) The Commissioners of the Municipality of Howrah or any inhabitants thereof may if they object to such extension submit their objection in writing to the Local Government within such period as may be specified in this behalf in the said notification and the Local Government shall take such objections into consideration

(*2*) When the said period has expired and the Local Government has considered the objections (if any) which have been submitted under sub-section (*1*) the Local Government may by notification[1] in the Calcutta Gazette extend to the town of Howrah or to the part thereof specified in the notification published under section 640 as the case may be all or any of the portions of this Act which were specified in the said notification subject to the modifications and restrictions (if any) specified in that notification or subject to such other modifications or restriction (if any) as the Local Government may think fit or without modification or restriction of any kind

Effect of extension of Act

642 If all or any portions of this Act which do not already apply to the town of Howrah be extended to that town or any part thereof under section 641 then—

(*a*) the Bengal Municipal Act 1884[2] or the corresponding portions of that Act as the case may be shall be repealed in the said town or part on and from the date of such extension and Ben 1 of 1884

(*b*) except as the Local Government may otherwise by notification in the Calcutta Gazette direct all rules by-laws regulations orders directions and powers made issued or conferred under the portions of this Act which have been so extended and in force at the date of such extension shall apply to the said town or part in supersession of all corresponding rules by-laws regulations orders directions and powers made issued or conferred under the said Bengal Municipal Act 1884[2] Ben 1884

Rules

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*(Part XI—Chapter XLVI—Supplemental Provisions—
Secs. 643, 644)*

Explanation—The extension to the town of Howrah or any part thereof of any portion of this Act shall not have the effect of placing the said town or part under the authority of any municipal authority constituted or appointed for Calcutta

Police

643 (*1*) The Commissioner of Police and his subordinates shall be bound— Co operation of the Police

(*a*) to co-operate with the Chairman for carrying into effect and enforcing the provisions of this Act and for maintaining good order in Calcutta, and,

(*b*) on the order of a Magistrate, to assist the municipal authorities in carrying out any order made by a Magistrate under this Act for the demolition of a building

(*2*) It shall be the duty of every police officer in Calcutta—

(*i*) to communicate without delay to the proper municipal officer any information which he receives of a design to commit or of the commission of any offence against this Act or any rule, by-law or regulation made hereunder, and

(*ii*) to assist the Chairman or any municipal officer or servant reasonably demanding his aid for the lawful exercise of any power vesting in the Chairman or in such municipal officer or servant under this Act or any such rule, by-law or regulation

644. (*1*) Every police-officer shall arrest any person who commits, in his view, any offence against this Act or any rule, by-law or regulation made hereunder if the name and address of such person be unknown to him and if such person, on demand, declines to give his name and address or gives a name or address which such officer has reason to believe to be false Arrest of offenders

(*2*) No person so arrested shall be detained in custody after his true name and address are ascertained or without the order of a Magistrate, for any longer time, not exceeding at the most twenty-four hours from the arrest, than is necessary for bringing him before a Magistrate

(*3*) On the written application of the Chairman, the Engineer or the Health Officer, any police-officer above the rank of constable shall arrest any person who obstructs any municipal officer or servant in the exercise of any of the powers conferred by this Act or any rule, by-law or regulation made hereunder.

Miscellaneous

Who to be deemed owner or occupier where there are gradations of owners or occupiers

645. Whenever any right is conferred or duty imposed by or under this Act on the owner or occupier of any premises and, in consequence of there being gradations of owners or occupiers doubt arises as to who is the owner or occupier entitled to exercise such right or bound to perform such duty, the General Committee may, after due inquiry determine from time to time which of such owners or occupiers shall be deemed to be so entitled or bound

Provided that if the name of any one of such owners or occupiers has been entered in the assessment-book in pursuance of any decision given by the Chairman under section 165, sub-section (*2*), such owner or occupier shall be entitled or bound as aforesaid until his name is duly removed from the assessment-book

Commissioners officers servants and tax-collectors deemed public servants

646. The Chairman, the Vice-Chairman, the Deputy Chairman every Commissioner, every municipal officer and servant, every contractor or agent for the collection of any municipal rate or other tax or fee, and every servant or other person employed by any such contractor or agent, shall be deemed to be a public servant within the meaning of section 21[1] of the Indian Penal Code

Prohibition of obstruction of municipal contractors

647. No person shall obstruct or molest any person (not being a person referred to in section 646) with whom the Chairman has entered into a contract on behalf of the Corporation, in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Act or any rule, by-law or regulation made hereunder

Prohibition of removal of mark

648. No person shall remove any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized by this Act or any rule, by-law or regulation made hereunder

Special provisions as to land and buildings in Hastings

Control by General Officer Commanding the Presidency District over Government land and buildings

649. Notwithstanding anything contained in this Act, all land and buildings belonging to the Government in that part of Hastings which is included in Calcutta shall be subject to the control of the General Officer Commanding the Presidency District

Sanction of Government of India required to erection or re erection of masonry building

650. Notwithstanding anything contained in this Act,—

(*a*) permission to erect a masonry building in the said part of Hastings shall not be given or be deemed to have

[1] Printed in the General Acts, 1834 67, Ed 1909 p 252

been given unless and until the sanction of the Government of India has been obtained and

(*b*) such sanction shall not be applied for unless the plan of the building and the site plan of the land are approved by the Commissioner of Police

651. (*1*) If the erection or re-erection of any masonry building in the said part of Hastings is after the commencement of this Act commenced carried on or completed without obtaining the sanction of the Government of India the General Committee shall if requested by the General Officer Commanding the Presidency District so to do — Demolition of buildings erected or re-erected without such sanction

(*a*) by written notice direct the owner to demolish the building or

(*b*) themselves cause the building to be demolished at the expense of the owner

(*2*) No person shall be entitled to any compensation on account of such demolition

652 Section 580 shall also apply when any direction is given under clause (*a*) of section 651 Application of section 580 (fines)

SCHEDULE I

Calcutta

[*See section 3 clause* (*7*)]

Calcutta is the area bounded as follows —

by a line drawn along the southern and western bank of *the Circular Canal from the River Hooghly to the point where* it meets the Beliaghatta Canal thence eastward along the southern bank of the Beliaghatta Canal to the point where it meets the Pagladanga Road thence along the northern and eastern edge of the Pagladanga Road to the point where it meets the Chingrighatta Road thence along the southern edge of the Chingrighatta Road to the point where it meets the South Tangra Road thence along the eastern and southern edge of the the South Tangra Road to the point where it meets the Tapsia Road thence along the eastern southern and western edge of the Tapsia Road to the point where it meets the Tiljala Road thence westward along the southern edge of the Tiljala Road to the South Eastern State Railway thence

(Schedule I—"Calcutta"—Schedule II—Rules as to Licenses on the Exercise of Professions, Trades and Callings—Rule 1)

along the eastern edge of Russa Road, South, to the point where it meets the Tollygunj Circular Road, thence along the southern edge of the Tollygunj Circular Road to the point where it meets the Shahapur Road, thence westward along the southern edge of the Shahapur Road and its continuations the Garigacha Road and the Taratala Road, to the point where it meets the Sonai Road, thence northward along the western edge of the Taratala Road and the Nimakmahal Ghat Road to the River Hooghly, and thence along the left bank of the River Hooghly to its junction with the Circular Canal,

except that it does not include—

(*1*) Fort William,[1]

(*2*) the Esplanade, or

(*3*) that part of Hastings[2] north of the south edge of Clyde Road and the new road to the river bank, which have hitherto been excluded from Calcutta

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SCHEDULE II

RULES AS TO LICENSES ON THE EXERCISE OF PROFESSIONS, TRADES AND CALLINGS

(See sections 37, 49, 198, 199, 200, 467 and 567)

Classes of licenses and tax on each

1. Every license shall be granted under one or other of the classes mentioned in the second column of the following table, and there shall be paid for the same the fee mentioned in that behalf in the third column of the said table—

1	2	3
Serial No	Classes	Fees
	CLASS I	
1	Company or association or body of individuals the paid-up capital of which is equivalent to ten *lakhs* of rupees or upwards	Two hundred rupees

[1] As to the government of Fort William, *see* the Fort William Act, 1881 (13 of 1881), in Vol. I of this Code

[2] But as to land and buildings in Hastings, *see* ss. 649 to 659, *ante*, pp. 418 and 419

(Schedule II.—Rules as to Licenses on the Exercise of Professions, Trades and Callings.—Rule 1.)

1	2		3
Serial No	Classes		Fees
	CLASS II		
2	Company or association or body of individuals,	which is not included in Class I	One hundred rupees
3	Merchant, banker, wholesale trader, commission agent architect, civil engineer, builder, contractor, auctioneer or carrier,	whose place of business is valued under Chapter XII at Rs 300 *per mensem* or upwards	Ditto
4	Lessee or owner of a cotton jute, hide or other screw, screw house or press house,	Ditto	Ditto
5	Lessee or owner of a market, *bazar* or theatre or a place of public entertainment kept up for the purpose of profit,	Ditto	Ditto
6	Printer, lithographer, engraver, die sinker, photographer or phototyper	Ditto	Ditto
7	Hotel keeper, boarding house keeper lodging house keeper manufacturer retail trader or shop keeper,	Ditto	Ditto
	CLASS III		
8	Practising surgeon, physician, dentist, barrister, attorney *vakeel of the* High Court proctor notary public, public accountant, average adjuster *shroff* or *banian*		Fifty rupees
9	Merchant, banker, wholesale trader commission agent architect, civil engineer, builder contractor, auctioneer or carrier,	who is not included in Class II	Ditto
10	Lessee or owner of a cotton jute, hide or other screw screw house or press house,	Ditto	Ditto
11	Lessee or owner of a market *bazar* or theatre or a place of public entertainment kept up for the purpose of profit,	Ditto	Ditto

(*Schedule II—Rules as to Licenses on the Exercise of Professions, Trades and Callings—Rule 1.*)

1	2		3
Serial No	Classes		Fees
	CLASS III—*contd*		
12	Printer lithographer engraver die sinker photographer or photo typer	who is not included in Class II and whose place of business is valued under Chapter XII at Rs 100 *per mensem* or upwards	Fifty rupees
13	Hotel keeper, boarding house keeper lodging house keeper, manufacturer, retail trader or shop keeper,	who is not included in Class II and whose place of business is valued under Chapter XII at Rs 100 *per mensem* or upwards.	Ditto
14	Plumber or gas fitter	whose place of business is valued under Chapter XII at Rs 100 *per mensem* or upwards	Ditto
	CLASS IV		
15	Broker or *dalal* employed in the wholesale transfer or purchase of imports or exports, country produce silk or other merchandise,		Twenty five rupees
16	Purchaser of goods in Calcutta for transport and sale beyond the limits of Calcutta	who is not included in Class III	Ditto
17	Broker or dealer in precious stones		Ditto
18	Broker or dealer in houses landed property Government securities shares or bills of exchange		Ditto
19	Surveyor or professional measurer .		Ditto
20	Freight broker		Ditto
21	Practising licentiate of medicine, practising apothecary or practising veterinary surgeon		Ditto

(Schedule II—Rules as to Licenses on the Exercise of Professions, Trades and Callings—Rule 1.)

1	2		3
Serial No	Classes		Fees
	CLASS IV—*contd*		
22	Keeper of a shop for the sale of any liquor or intoxicating drug, a punch house, a music hall or a billiard room		Twenty five rupees
23	Owner of a wholesale tobacco, jute or other depot		Ditto
24	Owner of a steam ferry boat or a cargo boat		Ditto
25	Pawnbroker or money lender		Ditto
26	Pleader, *mukhtar* or law agent	who is not included in Class III	Ditto
27	Printer, lithographer, engraver, die sinker, photographer or phototyper	who is not included in Class II or Class III and whose place of business is valued under Chapter XII at Rs. 25 *per mensem* or upwards	Ditto
28	Hotel keeper, boarding house keeper, lodging house keeper, manufacturer, retail trader or shop keeper	Ditto	Ditto
29	Plumber or gas fitter,	who is not included in Class III and whose place of business is valued under Chapter XII at Rs. 25 *per mensem* or upwards	Ditto
30	Carriage dealer or horse dealer	whose place of business is valued under Chapter XII at Rs. 25 *per mensem* or upwards	Ditto
	CLASS V		
31	Broker or *dalal*	who is not included in Class IV	Twelve rupees

(Schedule II.—Rules as to Licenses on the Exercise of Professions, Trades and Callings.—Rule 1.)

1	2		3
Serial No	Classes		Fees
	CLASS V—*contd.*		
32	Professional actor, singer or musician	......	Twelve rupees
33	Keeper of a permanent stall at a daily public market or *bazar*, or of a shop within fifty yards of a public market or *bazar*, who is a seller of goods similar in kind to other goods sold in such public or market *bazar*[1]	......	Ditto
34	*Poddar* or money changer	......	Ditto
35	Practising *hakim kabiraj*, native doctor or midwife	......	Ditto
36	Order supplier, *coolie* supplier, shipping agent or boat supplier	......	Ditto.
37	Printer lithographer, engraver, die sinker, photographer or photo typer	who is not included in Class II, Class III or Class IV, and whose place of business is valued under Chapter XII at Rs 10 *per mensem* or upwards	Ditto
38	Hotel keeper, boarding house keeper, lodging house keeper, manufacturer retail trader or shop keeper	Ditto	Ditto
39	Plumber or gas fitter ...	who is not included in Class III or Class IV, and whose place of business is valued under Chapter XII at Rs 10 *per mensem* or upwards	Ditto
40	Carriage dealer or horse-dealer ...	who is not included in Class IV, and whose place of business is valued under Chapter XII at Rs. 10 *per mensem* or upwards	Ditto

[1] *sic* *Read* public market or *bazar*

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(Schedule II.—Rules as to Licenses on the Exercise of Professions, Trades and Callings.—Rules 2-4.)

1	2		3
Serial No	Classes		Fees
	CLASS V—*concld*		
41	Owner of any carriage passenger boat or *palanquin* which is let out for hire,	whose place of business is valued under Chapter XII at Rs 10 *per mensem* or upwards	Twelve Rupees
42	Band supplier or stamp vendor,	Ditto	Ditto
	CLASS VI		
43	Keeper of a shop or other place of business,	who is not included in any other class	Four rupees
44	Pedler, vendor of goods in carts hawker or box *wallah*,	who is not included in Class VII	Ditto
	CLASS VII		
45	Itinerant dealer hawking goods for sale in a basket or tray		One rupee

Licenses to be either personal or local

2. *(1)* Licenses shall be either personal or local
(2) "Local license" means—

(a) a license the classification of which depends on the valuation of the place of business, and

(b) a license granted under Class IV, number 22, number 23, number 24, or number 25, Class V, number 33, or Class VI, number 43

Only one personal license required for each person

3. No person shall in any case be required to take out more than one personal license; but if any person is liable under different classes he must take out a license under the highest class under which he is liable

Personal license for members of firms

4. When two or more persons carry on business jointly, they may take out a single license as a firm

Provided that, if any of the partners of such a firm exercises any separate profession, trade or calling on his own account or jointly with other partners, he must take out a separate and additional license.

(Schedule II—Rules as to Licenses on the Exercise of Professions, Trades and Callings—Rules 5-10)

Local license required for each separate place of business

5. A separate local license shall be taken out for each separate place of business

Provided that no separate license shall be required for adjacent premises which form one place of business, or for any yards, godowns or factories which are auxiliary to any place of business, but the amount of the valuation of such premises, yards godowns or factories shall be included in the computation for determining the class under which the license should be taken out

Valuation of places of business not separately valued under Chapter XII

6. Where a place of business occupies only a portion of one set of premises and has not been separately valued under Chapter XII the valuation thereof for the purposes of rule 1 shall be the rate *per mensem* at which the same might, in the opinion of the Chairman, reasonably be expected to let.

When both personal and local license required

7. Where any person practises a profession, trade or calling for which a personal license should be taken out, and is also the owner or lessee of a place of business for which a local license should be taken out, he shall, if the Chairman so directs, take out both a personal license and a local license.

Provided that where the place of business is auxiliary to the practice of the profession, trade or calling, only one license shall be required, and such license shall be either personal or local as the Chairman may direct

Lessee to be licensee

8. When the lessee or owner of any place of business is required to take out a license, the license shall be taken out by the lessee, if any, or if there is no lessee, then by the owner

Continuance of liability in same class

9. Any person who has taken out a license for the next preceding year, or has been fined under section 578 for not taking out a license during that year, shall, subject to the other provisions of these rules be deemed to be liable and entitled to take out a license for the current year under the class in which he was then placed

Time for presentation of applications for remission etc

10. (1) Any person who claims a remission or refund under proviso (a) to section 198, in respect of any year, must present an application to the Chairman before the first day of July in the next following year

(2) Any person who—

(i) has taken out a license for the next preceding year or has been fined under section 578 for not taking out a license during that year, and

(ii) in consequence of any change in his profession, trade, calling or place of business, or for any other reason, claims an exemption or declaration under proviso (b) or proviso (c) to the said section 198,

must present an application to the Chairman before the first day of July in the current year

(Schedule II—Rules as to Licenses on the Exercise of Professions, Trades and Callings—Rules 11-14.)

11. (*1*) If the Chairman considers—

Power of Chairman to issue notices to take out licenses etc

(*a*) that any person who has not taken out a license in the next preceding year ought to take out a license, or

(*b*) that any person who has taken out a license for the next preceding year, but has not done so for the current year, ought to take out a license under a higher class, or to take out more than one license,

he may serve such person with a notice directing him to take out a license or licenses for the current year under such class or classes as may to the Chairman seem proper

(*2*) If the Chairman considers that any person who has taken out a license for the current year ought to have taken out a license under a higher class, he may serve such person with a notice directing him to take out a license under such higher class for the next following year

12. Where any person is summoned for not taking out a license, and service of notice under sub rule (*1*) of rule 11 is not proved, it shall be incumbent on the Chairman to prove that the person so summoned is liable to take out a license, and to state the class under which he is so liable

Chairman to prove liability when service of notice not proved

13. Any person dissatisfied with an order made under rule 6 or rule 7 may appeal to a Bench consisting of the Chairman, Vice-Chairman or Deputy Chairman and not less than three Commissioners, and

Appeal when to lie

any person dissatisfied with an order made under proviso (*b*) to section 198 or a notice served under rule 11 may appeal—

(*a*) to a bench as aforesaid, or

(*b*) to a Court of Small Causes having jurisdiction in the place in which the profession, trade or calling is said to be carried on

[1]Provided that no appeal shall lie unless the amount payable for the license, as assessed, has been deposited with the Corporation

14. Any person who is desirous of appealing under rule 13 must, within fifteen days of the passing of the order or the service of the notice, as the case may be, present at the municipal office a statement in writing, setting forth the grounds of appeal, and if the appeal is against an order made under proviso (*b*) to section 198 or a notice served under rule 11, intimating whether he intends to appeal to a Bench under clause (*a*) or to a Court of Small Causes under clause (*b*) of the said rule

Statement by appellant

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[1] This proviso was amended by Notification No 471 M dated the 21st February 1910 but was afterwards restored to its original form by Notification No 1079 M, dated the 1st August 1910 in Calcutta Gazette 1910 Pt I B p 109

(Schedule III — Wards for purposes of the election of Ward Commissioners)

Number of Ward	Name of Ward	Boundaries of Ward			
		On the north	On the south	On the east	On the west
1	2	3	4	5	6
20	Beniapukar	Police Hospital Road Pil Bagan Road South Road Entally Gobra Road North and Christopher's Lane	Karaya Corsthan Road Karaya Road Corsthan Lane Jhaotala Road Tiljala 1st Lane Tiljala Road and Tapsia Road	Tapsia Road	Lower Circular Road
21	Ballygunj and Tollygunj	Lower Circular Road Karaya Corsthan Road Karaya Road Coristhan Lane Jhaotala Road Tiljala 1st Lane Tiljala Road and Nepal Chunder Bhattacharjee's 1st Lane to Tolly's Nala	The Eastern Bengal State Railway Budge Budge Branch and Tollygunj Circular Road	The Eastern Bengal State Railway and part of Russa Road South	Lower Circular Road Lansdowne Road Rowland's Lane Chakarberia Road, North Chakarberia Lane Padopukar Road Beltala Road Hazra Road Russa Road South and Tolly's Nala
22	Bhowanipur	Lower Circular Road	Nepal Chunder Bhattacharjee's 1st Lane to Tolly's Nala	Lansdowne Road Rowland's Lane Chakarberia Road North Chakarberia Lane, Padopukar Road Beltala Road Hazra Road and Russa Road South	Tolly's Nala and the road leading from Lower Circular Road to Zeerut Bridge
23	Alipur	Tolly's Nala	Tollygunj Circular Road and Shahapur Road	Tolly's Nala	Diamond Harbour Road and Kidderpur Bridge approach
24	Ekbalpur	Komedan Bagan Road and Circular Garden Reach Road	Chiragachla Road and Taratala Road	Diamond Harbour Road and Komedan Bagan Road	The new road constructed by the Commissioners for the Port of Calcutta from Circular Garden Reach Road to Sona Road and Sonai 3rd Lane
25	Watgunj	The River Hooghly	Komedan Bagan Road Circular Garden Reach Road Sona Road and Taratala Road	Tolly's Nala the Kidderpur Bridge approach Diamond Harbour Road and the new road constructed by the Commissioners for the Port of Calcutta from Circular Garden Reach Road to Sona Road and Sona 3rd Lane	Nimakmehal Ghat Road and Tarataia Road

SCHEDULE IV[1]

Rules for Preparation and Publication of the Municipal Election-roll

(*See sections 36 and 567*)

1. In these rules, unless repugnant to the context, the word "person" shall include a company, body corporate, firm, Hindu joint-family and other association of individuals. Definition

2. On or before the first day of December, 1908, and thereafter on or before the first day of December immediately preceding each general election, the Chairman shall prepare from the registers in his office a list of persons appearing to be entitled to be enrolled in the municipal election-roll as voters of wards. The list shall contain the names of all persons qualified under any clause or clauses of section 37, and the number of votes to which they are respectively entitled. Preparation of list of voters

3. No person shall be entitled to be enrolled in the municipal election-roll as qualified to vote under any sub-clause or clauses of section 37, unless he has before the first of December immediately preceding the election paid all instalments of the consolidated rate and other municipal taxes due from him for each of the first two quarters of the official year commencing on the first day of April in which the elections are held. Payment of municipal taxes a condition precedent to entry in list of voters

Provided that when the Chairman has, under section 178, levied the entire consolidated rate from the owner of any building, any occupier of the building who is qualified to vote in respect of the sum due from him as consolidated rate shall be entitled to be enrolled, on his satisfying the Chairman that he has paid such sum to the owner of the building in accordance with the provisions of section 179.

4. (*1*) The list shall be arranged in accordance with the alphabetical order of the names of streets and with the numbering of premises in streets, and shall be sub-divided into parts showing separately, for each ward into which Calcutta is divided as provided in this Act, the names of persons entitled to be enrolled as voters for that ward and the number of votes to which each person is entitled. Arrangement of list of voters

(*2*) The list may be further sub-divided in such manner as the Chairman may from time to time consider convenient.

(*3*) In preparing the list the Chairman shall enter therein the names of the persons who are qualified under section 37, sub-section (*2*) whether such persons be individuals or companies, bodies corporate, firms, Hindu joint-families or other associations of individuals or receivers or trustees.

[1] This Schedule IV was substituted for the original Schedule IV by Notification No. 410 M, dated the 2nd March, 1908, published in the Calcutta Gazette, 1908, Pt. IB, p. 25.

(Schedule IV—Rules for Preparation and Publication of the Municipal Election roll—Rules 5 10)

(4) If individual members of any company body corporate firm Hindu joint family or other association or any receivers or trustees so entered be qualified as aforesaid on their own separate account the Chairman shall enter their names in the list separately

Publication of list

5 The Chairman shall publish the list prepared as aforesaid by causing a printed copy thereof to be fixed for public inspection in a conspicuous position at the municipal office and at such other places as he thinks fit on or before the said first day of December and to be kept so fixed during the remaining days of that month

Delivery of copies of list and fees therefor

6 Printed copies of the list shall be delivered to any person applying for the same on payment of such reasonable fee for each copy as may from time to time be prescribed by the Chairman with the approval of the General Committee in this behalf

Notice of publication and sale of list

7. On or before the tenth day of the said month of December the Chairman shall give notice by advertisement in local newspapers of the publication of the said list and of the place at which and the fee for which copies of it may be obtained

Notice of claims to be entered on list and objections to entries

8 (1) Every person who claims to have his name inserted in the list as being qualified under any of the clauses of section 37 or who claims to be entitled to more votes than are allotted to him in the list must on or before the first day of the succeeding month of January give written notice of his claim to the Chairman

(2) Any person whose name is in the list may object to any other person as not being entitled to have his name retained therein

(3) Every person desiring to make an objection under sub rule (2) must on or before the said first day of January send to the Chairman and also give to the person objected to or leave at his last known place of abode written notice of the objection and of the nature thereof

Representation of associations of individuals

9 If the name of a company body corporate firm Hindu joint family or other association of individuals has been entered in the list any one individual person duly authorized in this behalf by such company body corporate firm Hindu joint family or association may by written notice sent to the Chairman on or before the said first day of January apply that his name be entered in the list as the person qualified to vote or to be elected in behalf of such company body corporate firm Hindu joint family or association

Revision of list by Chairman

10 (1) The Chairman shall before the first day of the succeeding month of March revise the said list

(2) He shall for that purpose hear in open office the claims objections and applications which have been duly

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(Schedule IV—Rules for Preparation and Publication of the Municipal Election roll—Rule 11.)

made as aforesaid and shall give three clear days notice of the holding of the inquiry

(3) Such notice shall be served upon each claimant each person objecting each applicant and each person objected to and shall be fixed on some conspicuous place in the Municipal office

(4) The Chairman shall insert in the list—

(a) the name of every person who has duly claimed to have his name inserted therein, and whose claim is proved to the Chairman's satisfaction and

(b) when any person has duly claimed to be entitled to more votes than were originally allotted to him in the list and such claim is proved to the Chairman's satisfaction the number of votes to which such person is found to be entitled

(5) The Chairman shall expunge from the list the name of every person proved to his satisfaction to be dead and may correct any omission or clerical error in the list

(6) Except as hereinbefore provided the Chairman shall retain in the list the name of every person to whom objection has not been duly made

(7) The Chairman shall also retain in the list the name of every person objected to unless the objector appears by himself or by some person duly authorized by him in this behalf in support of the objection

(8) Where the objector so appears the Chairman shall require proof of the qualification of the person objected to and if within such reasonable time as the Chairman fixes in this behalf or on the subsequent day if any to which hearing is adjourned under Rule 10 such person's qualification is not proved to the Chairman's satisfaction he shall expunge his name from the list

(9) If no individual person has applied to the Chairman under Rule 8 to have his name entered in the list in behalf of a company body corporate firm Hindu joint family or other association of individuals the Chairman may determine what individual person shall be entitled to represent such company body corporate firm Hindu joint family or association and shall enter his name in the list as the person qualified to vote or to be elected in behalf of such company body corporate firm Hindu joint family or association

11. The Chairman may adjourn the hearing of any matter under the foregoing rules from time to time but so that no adjourned hearing be held after the last day of February immediately preceding the general election Adjournments

List when revised and signed to be the Municipal election roll

12. When the aforesaid list has been revised by the Chairman, he shall sign a printed copy thereof, and that copy shall be the Municipal election-roll.

Publication of municipal election rolls

13. The Chairman shall publish the Municipal election-roll by causing a printed copy thereof to be fixed for public inspection in a conspicuous position at the Municipal Office and at such other places as he thinks fit

Delivery of copies of rolls

14. Printed copies of the Municipal election-roll shall be delivered to any person applying for the same, on payment of such reasonable fee for each copy as may from time to time be prescribed by the Chairman, with the approval of the General Committee, in this behalf

Commencement and continuance of roll

15. (*1*) The Municipal election-roll shall come into operation on the first day of March immediately preceding the General election, and shall continue in operation for three years beginning on that day

(*2*) The roll shall be final and, while it continues in force, it shall not be altered except so as to correct such clerical errors as the Chairman may advertise by public notice given from time to time

(*3*) If a Municipal election-roll is not prepared in due time, the Municipal election-roll in operation immediately before the time at which the new roll ought to have been prepared shall continue in operation until the new roll is prepared

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SCHEDULE V[1]

RULES FOR CONDUCT OF ELECTIONS

(*See sections 54 and 567.*)

Notice of elections

1. Three weeks at least before the day fixed for an election, notice of such election shall be given by the Chairman by advertisement in the Calcutta Gazette and in local newspapers, and by posting placards in conspicuous places in the ward for which the election is to take place

Nomination papers

2. Every person who is a candidate for election shall send to the Chairman, not less than fourteen days before the day fixed for the election, a nomination-paper containing—

(*a*) his name and description and a statement of his place of abode,

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[1] This Schedule V was substituted for the original Schedule V by Notification No 440M, dated the 2nd March 1908 published in the Calcutta Gazette, 1908, Pt IB, p 2o

(*b*) the name of the ward or wards for which he purposes to stand,

(*c*) the signature of two voters other than the candidate in each such ward who respectively propose and second his candidature, and

(*d*) the signature of eighteen voters other than the candidate in each such ward who approve his nomination

3. If any person nominated— Power to declare nomination invalid

(*a*) is not enrolled in the Municipal election-roll as a voter of a ward, or

(*b*) is disqualified for being a Commissioner for any of the reasons set forth in section 39, or

(*c*) has not complied with the provisions in Rule 2,

the Chairman shall declare his nomination to be invalid

4. Not less than three days before the day fixed for election, the Chairman shall publish at the Municipal Office and in local newspapers a list of all candidates for election Publication of list of candidates for election

5. In the event of there being not more than one candidate for election in any ward, such candidate shall be deemed to be elected Poll when unnecessary

6. In the event of there being more than one candidate a poll shall be held in the following manner that is to say — Poll when and how to be taken

(*1*) a polling-place shall be provided by the Chairman for each ward, and the Chairman may appoint such and so many polling-officers and other persons to assist at the poll as he may think fit, and, with the approval of the General Committee, pay them such reasonable remuneration for their services as he may determine,

(*2*) the poll shall commence at nine o'clock in the forenoon, and shall close at six o'clock in the afternoon of the same day, or, with the special permission of of the Chairman, at some time on the next following day to be named by him,

(*3*) all votes must be given in person, and no vote shall be received by proxy or in writing

(*4*) no vote shall be received for any candidate whose name has not been published by the Chairman under Rule 4 as having been validly nominated

(*5*) when the name in the Municipal election-roll is that of a company, body corporate, firm, Hindu joint-family or other association of individuals, a vote on

(Schedule V—Rules for Conduct of Elections—Rule 7)

behalf of such association may be received from any person who produces to the polling officer a power of attorney authorising him to represent the said association for the purposes of the election

(*6*) the polling officer shall read out the list of candidates and the names of the voter and the votes given by them shall then be recorded by him

(*7*) no objection to a voter shall be entertained except on the ground that he is not the person under whose name as entered in the Municipal election roll he claims to vote

(*8*) objections under clause (*7*) shall be summarily decided by the polling officer

(*9*) the polling officer shall then and there declare the candidate who has the largest number of votes to be duly elected and shall report accordingly to the Chairman

Provided that if the majority for any candidate consists only of votes to which objections have been raised and if the polling officer has been unable to decide such objections summarily as provided in clause (*8*) he shall adjourn the proceedings and report the matter to the Chairman

(*10*) when a report is made to the Chairman under the proviso to clause (*9*) he shall hold such inquiry regarding the disputed votes as he may consider necessary and his decision shall be final

(*11*) on the termination of the said inquiry the Chairman shall declare the candidate who has the largest number of votes to be duly elected

(*12*) if there be an equality of votes the candidate for whom the greatest number of qualified persons have voted shall be deemed to be elected and in case of an equality of votes in this respect the Chairman shall give a casting vote and the candidate to whom such vote is given shall be deemed to be elected

Procedure when a Commissioner elected for more than one ward

7 If any person is elected a Commissioner for more than one ward he shall within five days from the date of the election declare for which ward he will serve and if he fails to make such declaration the Chairman shall forthwith declare the ward for which such person shall serve and in either case such person shall be held to be elected in the ward in respect of which either of such declarations has been made and thereupon the electors of the other ward or wards in which such person has been elected shall proceed to elect a Commissioner in the manner hereinbefore provided

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(Schedule VI —Form of Debenture —Schedule VII —Dates up to which valuations made before the commencement of this Act are to remain in force)

SCHEDULE VI

Form of Debenture [1]

Repealed by the Calcutta Municipal (Loans) Act 1914 (Ben Act 4 of 1914) s 3

SCHEDULE VII

Dates up to which valuations made before the commencement of this Act are to remain in force

(See section 152)

1	2
District	Date up to which valuations made before the commencement of this Act are to remain in force
Ward No 1	The 31st March 1902
2	The 31st March 1903
3	The 30th September 1902
4	The 30th September 1903
5	The 31st March 1904
6	The 30th September 1901
7	The 30th September 1904
8	The 31st March 1905
9	The 30th September 1905
10	The 31st March 1906
11	The 30th September 190[illegible]
12	The 31st March 1901
13	The 31st March 1901
14	The 30th September 19[illegible]

[1] See section 31 and foot note to Chapter V, page [illegible] ante

(*Schedule VIII.—Tax on Carriages and Animals*)

1	2
District	Date up to which valuations made before the commencement of this Act are to remain in force
Ward No. 15	The 31st March, 1906
16	The 30th September, 1905
17	The 31st March, 1905
18	The 31st March, 1905
19	The 30th September, 1904
20	The 31st March, 1904
21	The 30th September, 1903
22	The 31st March, 1903
23	The 30th September, 1902
24	The 31st March, 1902
25	The 30th September, 1901

SCHEDULE VIII

TAX ON CARRIAGES AND ANIMALS

(*See sections 188 and 191.*)

	Per half year Rs. A. P.
On every four-wheeled carriage drawn by two horses or propelled by electricity, gas or any other mechanical power	12 0 0
Where any person owns more than one such carriage, then on every such carriage after the first	8 0 0
On every four-wheeled carriage drawn by one horse or pony or mule or a pair of ponies or mules under 13 hands	6 0 0
On every two-wheeled carriage drawn by one or more animals	6 0 0
jinricksha	2 0 0
bicycle	2 0 0
tricycle	3 0 0
horse (not being a race horse)	6 0 0
race horse	12 0 0
pony or mule of or over 13 hands	6 0 0
pony or mule under 13 hands	2 0 0

(Schedule IX—Scavenging Tax—Schedule X—Form of Notice of Demand)

SCHEDULE IX

SCAVENGING TAX

(See sections 203 and 559 (2))

PART I—PERSONS BY WHOM THE TAX IS PAYABLE

Hackney carriage owner	Shepherd
Carter	Goatherd
Milk seller	Owner or occupier of a market or *bazar*
Horse dealer	

PART II—RATES OF FEE FOR LICENSES

	Per half year Rs.	A.
For every horse	6	0
pony or mule of or over 13 hands	6	0
pony or mule under 13 hands	3	0
bull or buffalo used for drawing a cart	1	8
cow or buffalo kept by a milk seller	0	12
donkey	0	12
ten sheep or goats	3	0

SCHEDULE X

FORM OF NOTICE OF DEMAND

(See sections 214 and 229)

To

A B

residing at

Take notice that the Chairman of the Calcutta Corporation demands from (you) [* as owner (or occupier),] the sum of due from (you) on account of (*here describe the premises on account of which the rate is leviable, or the carriage, animal, profession, trade or calling on account of which the tax is payable*) for the quarter (*or* half-year, *or* year) commencing (*or* ending) on the day of , and that if the said

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* In the case of a demand on the occupier of a building under section [illegible] state that notice of demand has been served upon the owner and that the sum due remains unpaid.

(*Schedule XI—Form of Distress Warrant*)

sum is not paid into the municipal office at or to an officer appointed to receive the same or if sufficient cause for non payment of the same is not shown to the satisfaction of the Chairman within seven days from the service of this notice a warrant of distress will be issued for the recovery of the same with costs

Dated this day of

(*Signed*)

Chairman of the

Calcutta Corporation

SCHEDULE XI

FORM OF DISTRESS WARRANT

(*See sections 215 (1) and 233 (1)*)

To (*here insert the name of the officer charged with the execution of the warrant*)

Whereas A B of has not paid or shown sufficient cause to my satisfaction for the non payment of the sum of due for the consolidated rate (*or as the case may be*) for the quarter (*or half year or year*) commencing (*or* ending) on the day of although the said sum has been duly demanded in writing from the said A B and seven days have elapsed since the service of the notice of demand

[And whereas the said sum has been increased under section 231 (*or* section 232 *as the case may be*) to

]

This is to direct you to distrain the movable property of the said A B (*or as the case may be* any movable property found on the premises in respect of which the said rate is due) to the amount of the said sum of and such further sum as may be sufficient to defray the costs of recovering the said amount and if within seven days next after such distress the said sum shall not be paid together with such further sum as shall be sufficient to defray the said costs to sell the said movable property and having paid and deducted out of the proceeds of the sale the said sum of and the costs of recovering the same to return the surplus if any and if the same be demanded within three years from the date of the sale to the person whom you shall find in possession of the said movable property

If sufficient distress cannot be found of the movable property of the said A B (*or* on the said premises *as the case may be*) you are to certify the same to me together with this warrant

Dated this *day of*

(*Signed*)

Chairman of the

Calcutta Corporation

SCHEDULE XII

TABLE OF FEES PAYABLE ON WARRANTS OF DISTRESS

(*See section 215 (3)*)

Sum distrained for		Fee
		Rs A
Under 5 Rupees		0 4
Rupees 5 and under Rupees	10	0 8
10	15	0 1
15	20	1 0
20	25	1 4
25	30	1 8
30	35	1 12
35	40	2 0
40	45	4
45	50	2 8
50	60	3 0
60	80	3 12
80	100	4 8
Above 100 Rupees		0

The above fees are to include all expenses except when peons are kept in charge of property distrained in which case four annas must be paid daily for each peon so employed

SCHEDULE XIII.

FORM OF NOTICE OF SALE.

(See section 218.)

To

A. B.

residing at

Take notice that I have this day seized the movable property specified in the inventory beneath this for the sum of
due for the consolidated rate (*or, as the case may be*) for the quarter (*or* half-year *or* year) commencing (*or* ending) on the day of ; and that unless you pay into the municipal office at the amount due, together with the costs of recovery, within seven days from the date of this notice, the said property will be sold.

Dated this day of

(Signature of the Officer executing the Warrant of Distress.)

Inventory.

(Here state particulars of the movable property seized.)

SCHEDUDE XIV.

SCALE OF FERRULES IN BUILDINGS.

(See section 259.)

If the annual value of the building, as determined under Chapter XII, be—

	the size of the ferrule shall be—
from 1 to 599 rupees (both inclusive) . . .	$\frac{1}{4}$ inch.
" 600 to 1,199 " " . . .	$\frac{3}{8}$ "
" 1,200 to 2,399 " " . .	$\frac{7}{16}$ "
" 2,400 to 3,599 " " . . .	$\frac{1}{2}$ "
of or above 3,600 rupees	$\frac{3}{4}$ " $\frac{7}{8}$ " or 1 "

SCHEDULE XV

Rules as to Drains

(*See sections 308, 319, 320, 323, 326, 328, 559 (12) and 567, and Schedule XVI, rule 15.*)

1. Every underground house-drain constructed after the commencement of this Act or provided for a building erected or re-erected after the commencement of this Act must consist of good sound pipes made of glazed stoneware or other suitable material, and must have water-tight joints made of Portland or other approved cement. Material and joints.

2. Every such house-drain must be of adequate size, with an internal diameter of not less than four inches. Size.

3. No such house-drain shall be so constructed as to form in any of such drains a right-angled junction, either vertical or horizontal, and every branch drain or tributary drain must be joined to another drain obliquely, at an angle of not less than one hundred and thirty-five degrees, in the direction of the flow of such other drain. Angles.

4. Every such house-drain must be laid upon a bed of good concrete not less than six inches thick, must be covered for half its depth with concrete not less than four inches thick, and must have a proper fall. How to be laid.

5. Every such house-drain must be so constructed as to prevent any inlet to the drain (other than such inlet as may be required from the apparatus of a connected privy or water-closet) being made within the building. Prohibition of inlet within building.

6. (*1*) In every such house-drain a suitable trap must be provided. Traps.

(*2*) Such trap must be placed—

(*a*) within the curtilage of the building, or

(*b*) with the approval of the General Committee, in the footpath or (if there is no footpath) in the roadway adjacent to the building, and

(*c*) at a point as distant as may be practicable from the building and as near as may be practicable to the point at which the drain is connected with a municipal sewer.

(*3*) Every inlet to any such house-drain (other than an inlet provided in pursuance of rule 7 as an opening for the ventilation of the drain) must be properly trapped.

Ventilation **7.** The ventilation of such house drains must be provided for as follows —

(*1*) at least two untrapped openings must be made as follows —

(*a*) one opening must be made at or near the level of the surface of the ground adjoining the opening must be as near as may be practicable to the trap prescribed by rule 6 sub rule (*1*) must be on that side of such trap which is nearer to the building and must communicate with the drains by means of a suitable pipe shaft or disconnecting chamber

(*b*) the second opening must be made by carrying up from a point in the drains as far distant as may be practicable from the point at which the opening mentioned in clause (*a*) is situated a pipe or shaft fixed vertically to such height and in such manner as effectually to prevent any escape of foul air from such pipe or shaft into any building in the vicinity thereof and in no case to a less height than ten feet,

(*2*) provided that in any case in which the Chairman considers it impracticable to enforce the provisions of sub clauses (*a*) and (*b*) the two openings prescribed by clause (*1*) shall be made as follows —

(i) one opening shall be made by carrying up from a point as near as may be practicable to the trap prescribed by rule 6 sub rule (*1*) a pipe or shaft fixed vertically to such height and in such manner as effectually to prevent any escape of foul air from such pipe or shaft into any building in the vicinity thereof and in no case to a less height than ten feet and such opening shall be situated on that side of the said trap which is nearer to the building

(ii) the second opening shall be made at a point in the drains as far distant as may be practicable from the point at which the said pipe or shaft is carried up shall be at or near the level of the surface of the ground adjoining the opening and shall communicate with the drains by means of a suitable pipe or shaft

(*3*) every opening provided under this rule must be furnished with a suitable grating or other suitable cover for the purpose of preventing any obstruction in or injury to any pipe or drain by the introduction of any substance through the opening

(*4*) such grating or cover must be so constructed and fitted as to secure the free passage of air through it by means of a sufficient number of apertures the aggregate extent of which

(Schedule XV—Rules as to Drains.—Rules 8, 9.)

shall be not less than the sectional area of the pipe or drain to which the grating or cover is fitted ;

(5) every pipe or shaft referred to in this rule must be of a sectional area not less than that of the drain with which the pipe or shaft communicates, and not less than the sectional area of a pipe or shaft of the diameter of four inches ;

(6) except with the written permission of the Chairman, no bend or angle shall be formed in any pipe or shaft referred to in this rule ;

(7) where the situation height, sectional area and mode of construction of the soil-pipe of any connected privy or water-closet situated within a building are such as are prescribed by this rule for a pipe or shaft for ventilating a drain, such soil-pipe shall, with the consent of the Chairman, be deemed to provide the opening which under this rule is required to be provided by means of a pipe or shaft.

8. The soil-pipe of every connected privy or water-closet constructed after the commencement of this Act or provided for a building erected or re-erected after the commencement of this Act must— Soil pipe of connected privy or water closet.

(a) be at least four inches in diameter ;

(b) be fixed outside the building and be continued upwards without any diminution of its diameter ;

(c) be of such height and be so placed as to afford, by means of the open end of the pipe, a safe outlet for sewer air ;

(d) whenever practicable, be so constructed as to avoid any bend or angle ; and,

(e) be so constructed as to have no trap between the pipe and the drains and no trap (other than such trap as necessarily forms part of the apparatus of the privy or closet) in any part of the pipe.

9. Where any such connected privy or water-closet has no internal communication with a building then — Ventilation of soil pipe of connected privy or water-closet detached from building.

(a) if the distance between the privy or closet and the trap provided under rule 6 sub-rule (1) in the drain with which the closet or privy communicates is not more than ten feet, no ventilation pipe need be fixed in the soil-pipe ;

(b) if the said distance is more than ten feet but not more than thirty feet, a ventilation pipe must be fixed in the soil-pipe, at a point as far distant as may be practicable from the trap provided under rule 6 sub-rule (1), and such pipe must be placed vertically to such height and in such manner as effectually to prevent any escape of foul air from the pipe into any

building in the vicinity thereof, and in no case to a less height than ten feet, and must be of a sectional area not less than that of the drain with which it communicates, and not less than the sectional area of a pipe of the diameter of four inches;

(*c*) if the said distance is more than thirty feet, the soil-pipe must be ventilated in the manner prescribed by rule 7.

Waste pipes

10. (*1*) The following pipes in any building erected or re-erected after the commencement of this Act, namely:—

(*a*) the waste-pipe from any bath sink (not being a slop-sink constructed or adapted to be used for receiving sewage) or lavatory,

(*b*) the overflow pipe from any cistern or from any safe under a bath, connected privy or water-closet, and,

(*c*) every other pipe for carrying off waste water,

must be taken through an external wall of the building and must be so constructed as to discharge into the open air over a channel leading to a trapped *gully* grating at least eighteen inches distant from that end of the pipe from which the water issues.

(*2*) The waste-pipe in any such building from any slop-sink constructed or adapted to be used for receiving sewage must be constructed so as to comply with such of the rules in this Schedule as relate to the soil-pipe of a connected privy or water-closet.

Open house-drains

11. (*1*) Every open house-drain constructed after the commencement of this Act or provided for a building erected or re-erected after the commencement of this Act, for the purpose of discharging surface or sullage water, must be constructed of brick masonry or concrete plastered with Portland cement or of natural or artificial stone, or of a glazed half-round pipes.

(*2*) Every such open house-drain must be connected with a municipal sewer through trapped inlets in the manner prescribed by or under this Act for other house-drains.

Type-plans

12. Type-plans for the construction of house-drains shall be prepared by the General Committee and kept open to the inspection of any applicant at the municipal office at all reasonable times without charge.

Drains passing beneath a building

13. The following provisions shall be observed when any drain is, with the permission of the Chairman granted under section 303, constructed so as to pass beneath a building, that is to say:—

(*1*) the drain must be so laid as to leave, between the top of the drain at its highest point and the surface of

*(Schedule XVI—Rules as to Privies and Urinals—
Rules 1, 2)*

the ground beneath the building, a distance of not less than the full diameter of the drain,

(2) the drain must be laid in a direct line throughout the whole distance beneath the building,

(3) the drain must be completely embedded in, and covered with, good and solid concrete at least six inches thick all round,

(4) adequate means for ventilating the drain must be provided (where necessary) at each end of such portion thereof as passes beneath the building

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SCHEDULE XVI

RULES AS TO PRIVIES AND URINALS

(See sections 314, 315, 316, 319, 320, 326, 327, 328, 450, 559 (12), 567, 574 and 575)

Regulation of site of service privies

[1]**1.** (1) No service privy exceeding eleven feet in height shall be placed in the space required by this Act to be left at the back of a building

(2) No service privy situated in, or adjacent to a building shall be placed at a distance of less than six feet from—

(i) any public building, or

(ii) any building which is or is likely to be used as a dwelling-place or as a place in which any person is, or is intended to be, employed in any manufacture, trade or business

(3) No service privy shall be placed in a masonry building situated in a street which has been sewered and has an adequate unfiltered water-supply

(4) Every service privy shall be detached from the inhabited portion of a building

Substitution of connected privies for service privies

2. (1) No service privy shall be placed on any upper floor of a building

Provided that, if in any case the Chairman considers it impracticable or inexpedient to provide a connected privy, he may by written notice, authorize the owner of the building to erect a service privy and require him to pay such sum as may

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[1] This rule was substituted for the original rule 1 by paragraph I of Notification No. 51*M dated the 5th March 1910 published in the Calcutta Gazette 1910 Pt I B p [illegible]

be specified in the notice for the purpose of meeting the expenditure likely to be incurred by the Corporation in removing sewage from the privy.

(2) The Chairman may, by written notice, require the owner of any building to convert any service privy into a connected privy.

Provision of access to service privy from street.

3. (1) If there is no convenient access from a street to any service privy, and if the Chairman considers it inexpedient to require that the privy be converted into a connected privy, the General Committee may, if they think fit, by written notice, require the owner of the privy to form a passage giving access to the privy from the street.

(2) Every notice served under sub-rule (1) must require that such passage be formed at ground-level, be not less than four feet wide, and be provided with a suitable door, and must inform the said owner that the passage may, at his option, be either open to the sky or covered in.

Models and type-plans.

4. Models and type-plans of privies and urinals, approved by the General Committee, with estimates of the cost of constructing privies and urinals in accordance therewith, shall be kept in the municipal office, and shall be open to inspection by any person at all reasonable times without charge; but no person shall be bound to construct any privy or urinal in accordance with any such model or type-plan if the same be constructed in accordance with the other rules contained in this Schedule.

Drains.

5. (1) A drain must be provided for every service privy and every urinal.

(2) Such drain must be constructed of some impervious material and must connect the floor of the privy or urinal—

(a) with a drain communicating with a municipal sewer, or,

(b) if permitted by the Chairman, with an impervious cess-pool the contents of which can be removed to a municipal sewer, either by hand or by flow after filtration.

Floor.

6. (1) The floor of every privy and urinal—

(a) must, if the Chairman in any case so directs, be made of one of the following materials, to be selected by the owner of the privy or urinal, that is to say, glazed tiles, artificial stone or cement, or

(b) if no such direction is given, must be made of thoroughly well-burnt earthen tiles or bricks plastered with cement and not merely pointed with cement, and

(Schedule XVI—Rules as to Privies and Urinals—Rules 7-10)

(c) must be in every part at a height of not less than six inches above the level of the surface of the ground adjoining the privy or urinal

(2) The floor of every service privy and every urinal must have a fall or inclination of at least half an inch to the foot towards the drain prescribed by rule 5

[1](3) The floor of every connected privy in which the opening of the pan is placed on the level of the floor shall have a fall or inclination towards the pan of at least half an inch to the foot

7. The walls and the roof (if any) of every privy and urinal shall be made of such materials as may be approved by the Chairman *(Walls and roof)*

Provided that—

(a) in the case of service privies, the entire surface of the walls below the platform shall either be rendered in cement or be made as prescribed in clause (a) or clause (b) of rule 6;

(b) in the case of connected privies, the walls must, up to a height of at least twelve inches above the platform, be made as prescribed in clause (a) or clause (b) of rule 6

8. The platform of every connected privy and service privy must either be plastered with cement or be made of some water-tight non-absorbent material *(Platform)*

[2]**9.** Every privy, water-closet and urinal situated in, or adjacent to, a building must have an opening, of not less than three square feet in area in one of the walls of the privy, water-closet or urinal, as near the top of the wall as may be practicable and communicating directly with the open air *(Ventilation of privies, water-closets and urinals in or adjacent to buildings)*

[2]**10.** (1) Every service privy must be provided with a movable receptacle for sewage *(Service privies to be provided with a movable receptacle for sewage)*

(2) The following provisions shall have effect with regard to such privies and receptacles, that is to say,—

(a) the space beneath the platform of the privy must be of such dimensions as to admit of a movable receptacle for sewage of a capacity not exceeding two cubic feet being placed and fitted beneath the

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[1] Sub-rule (3) was added to rule 6 by paragraph II of Notification No. 512M, dated the [illegible] March 1910, published in the Calcutta Gazette 1910, Pt. III, p. 29.

[2] These rules 9 and 10 were substituted for the original rules 9 and 10 by paragraph III of Notification No. 512M, dated the [illegible] March 1910, published in the Calcutta Gazette 1910, Pt. III, p. 29.

platform in such manner *and* position as will effectually prevent the deposit, otherwise than in such receptacle, of any sewage falling or thrown through the aperture of the platform;

(*b*) the privy must be so constructed as to afford adequate access to the said space for the purposes of cleansing such space and of placing therein, and removing therefrom, a proper receptacle for sewage;

(*c*) the said receptacle must be water-tight, and must be made of metal, well-tarred earthenware or glazed stoneware, and must be of such construction and shape as will admit of its being easily removed and emptied of its contents;

(*d*) the door for the insertion and removal of the receptacle must be made so as to completely cover the aperture

Masonry wall for water-closets connected privies and urinals

[1]**11.** Every water-closet, connected privy and urinal situated in a building must be separated by a masonry wall from kitchens, habitable rooms and rooms in which any person is or is intended to be, employed in any manufacture, trade or business

Cistern

12. (*1*) Every connected privy and water-closet must be provided with a suitable water-cistern, so arranged as—

(*a*) to discharge direct into the pan of the privy or closet not less than three gallons of water each time the cistern is used, and

(*b*) to prevent water being drawn from the cistern for any other purpose

(*2*) All waste pipes and overflow pipes attached to such cisterns must terminate in the open air and be cut off from all direct communication with any drain

[2](*3*) Every urinal must be provided with adequate flushing arrangements to the satisfaction of the Chairman

Pan for connected privies and water closets

[3]**12A.** Every connected privy and water-closet must be provided with a pan of such form and dimensions as may be approved by the Chairman

Water trap

13. Every connected privy and water-closet must be provided with an air-tight water-trap immediately below the pan

(Schedule XVI.—Rules as to Privies and Urinals.— Rules 14-17)

[1]**14.** No "container" or other similar fitting shall be placed under the pan of a connected privy, water-closet or urinal, and no trap of the kind known as a "D trap" shall be used with any such privy, closet or urinal. *Prohibition of "containers" and D traps.*

15. (*1*) Every connected privy and water-closet must be provided with a soil-pipe for carrying sewage to a municipal sewer. *Soil pipe.*

(*2*) Such soil-pipe must have air-tight joints, and, if it be placed above ground, must be made of metal approved by the Chairman.

(*3*) Such soil-pipe must have, in addition to the trap prescribed by rule 13, a trap placed at some point between the privy or closet and the sewer referred to in sub-rule (*1*).

(*4*) Such soil-pipe must be ventilated by direct communication with the open air in the manner prescribed by the rules contained in Schedule XV, and, if the privy or closet is situated in a building, the pipe must be carried outside the building.

16. If any privy or urinal erected or re-erected after the commencement of this Act is so constructed as to contravene any of the provisions of this Schedule, the General Committee may, by written notice, whether or not the offender be prosecuted under this Act before a Magistrate, require— *Enforcement of the foregoing rules in the case of future privies or urinals.*

(*a*) the occupier of the building to which the privy or urinal belongs, or

(*b*) (if the privy or urinal does not belong to a building) the owner of the land on which the privy or urinal stands,

to make such alterations as may be specified in the notice with the object of bringing the privy or urinal into conformity with the said provisions.

17. (*1*) If any privy, urinal or group of privies or urinals erected before the commencement of this Act be certified by the Health Officer, after making such inquiry as he may think fit, to be in such a condition as to constitute a danger to health, the General Committee may, by written order, declare that all or any of the provisions of rule 2, sub-rule (*2*), rule 3 and rules 5 to 15 of this Schedule shall be applicable thereto. *Enforcement of certain of the foregoing rules in the case of existing privies or urinals.*

(*2*) When the provisions of any of the said rules have been so declared to be applicable to any privy, urinal or group of privies or urinals erected before the commencement of this Act, a notice may be issued under rule 2, sub-rule (*2*), rule 3 or rule 16, as the case may be, as if the privy, urinal or group had been erected or re-erected after the commencement of this Act.

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[1] This rule was substituted for the original rule 14 by paragraph [illegible] of Notification No. [illegible] M, dated the 5th March 1910, published in the Calcutta Gazette, 191[illegible], Pt. IB, p. [illegible]

SCHEDULE XVII

RULES AS TO THE USE OF BUILDING-SITES AND THE EXECUTION OF BUILDING WORK

(See sections 363, 370, 373, 374, 377, 381, 386, 389, 391, 567, 582 and 583)

Part I—Building-sites

Conditions as to use of building-sites.

[1] **1.** No piece of land shall be used as a site for the erection of a building,—

(1) if the building is to abut on a street, unless the site is of such a shape that the face of the building can be made parallel to the line of the street, or as nearly parallel to the said line as the General Committee may consider practicable, and

(2) if the site is within thirty feet of a tank, unless the owner satisfies the Engineer that he will take such order as will prevent any risk of the domestic drainage of the building passing into the tank, and

(3) if the site is a filled-up tank, or has been filled up with, or used for depositing, rubbish, offensive matter or sewage, unless the Chairman has examined the site and granted a certificate to the effect that it is, from sanitary and engineering points of view, fit to be built upon, and

(4) if the building to be erected is a public building, a dwelling-house or a hut intended for human habitation, unless the site is certified by the Chairman to be dry and well drained, or to be capable of being well drained

Certificate as to correctness of plans of a previously existing building.

[1] **1A.** Any person who intends to erect any building upon a site on which a building has been previously erected, whether before or after the commencement of this Act, may, before commencing to erect his intended building, cause to be prepared plans showing the extent of the previously existing building in its several parts (or, in the event of such building having been taken down before the commencement of this Act, or having been accidentally destroyed, the best plans available

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[1] Rules 1 and 1A were substituted for the original rule 1 by paragraph I of Notification No 313 M, dated the 5th March 1910 published in the Calcutta Gazette, 1910 Pt IB, p 30

(Schedule XVII—Rules as to the use of building sites and the execution of building-work—Rule 2)

under all the circumstances of the case), and may cause such plans to be submitted to the Chairman who shall (if reasonably satisfied with the evidence of their accuracy) certify the same under his hand, and such certificate shall be taken to be conclusive evidence of the correctness of the plans

Part II—Buildings generally

[1]**2.** (*1*) If a building is situated at the side of a street, no portion of the building, except open or balustraded parapets not more than four feet high, shall intersect any of a series of imaginary lines drawn across the street at an angle of forty-five degrees with the plane of the ground, such lines being drawn from the street alignment on the side of the street which is the more remote from the building in question, from a height of two feet above the centre of the street Height

Provided as follows —

(*i*) where the said street is joined at an angle by another street facing the building, the height of the building, measured from two feet above the centre of the street and excluding parapets as aforesaid shall not in any case exceed the width of the street in which it is situated, *together with the width of any set-back* which may be made, *plus* half the width of the street facing it.

(*ii*) nothing herein contained shall affect the erection of a building abutting upon, or situated at the side of, a street of not less than sixty feet in width if such building does not exceed eighty feet in height, and

(*iii*) no building exceeding eighty feet in height shall be erected without the special permission of the General Committee

Explanation—If a building be placed at the edge of the street its height measured from two feet above the centre of the street and excluding parapets as aforesaid must not exc [illegible] ling [illegible] o m r [illegible] and subject to the [illegible] intersects any of the aforesaid line

(2) In the case of any building which is re-erected in a street in existence at the commencement of this Act the angle at which the lines referred to in sub-rule (*1*) are to be drawn shall be fifty-six-and-a-half degrees instead of forty-five degrees

Provided as follows —

(*i*) the height allowed under this sub-rule shall in no case be more than thirty six feet, and

[1] This rule was substituted for the [illegible] rule [illegible] by para [illegible] of Notification No. [illegible] M dated the 5th March 1910 published in the Calcutta Gazette, 191[illegible] Pt. III, p. [illegible]

Part II—Buildings generally—contd.

(n) nothing contained in this sub-rule shall authorize the re-erection of any building so as to make it higher than any building which at the commencement of this Act was standing in the same place.

(3) Notwithstanding anything contained in sub-rule (1) or sub-rule (2) the Corporation may, by order published in the Calcutta Gazette declare[1] that, in any street specified in the order, the erection of two-storeyed buildings not exceeding twenty-eight feet in height, excluding two feet for the plinth and excluding open or balustraded parapets not more than four feet high, will be permitted without complying with the requirements of those sub-rules.

(4) If a building is situated on a corner plot so as to abut upon more than one street, the height of the building shall be regulated by the wider of such streets so far as it will abut or abuts upon such wider street, and also so far as it will abut or abuts upon the narrower of such streets to a distance of fifty-five feet from the wider street:

Provided that if the narrower street does not exceed eight feet in width, the height of the building shall be regulated by the wider street so far as it will abut or abuts upon the narrower street.

(5) Notwithstanding anything contained in sub-rule (1), (2) or (4)—

(a) a building of not more than one storey and not exceeding fourteen feet in height above the centre of the street, and

(b) if the owner by a free gift of a portion of his land to the Corporation, makes the street not less than twelve feet wide in front of his site, then a two storeyed building not more than twenty-eight feet high,

may be erected without complying with the requirements of those sub-rules.

Level of floor. **3.** The floor or lowest floor of every building erected or re-erected from the ground-level must be constructed at such level as will admit of—

(a) the construction of a drain sufficient for the effectual drainage of the building and placed at such level as will admit of the drainage being led into some

[1] For a reference to an order made under rule 2(3) see the Bengal Local Statutory Rules and Orders 1912, Vol. I, Pt. XI.

(Schedule XVII—Rules as to the use of building-sites and the execution of building-work—Rules 4-9)

Part II.—Buildings generally—concld.

municipal sewer at the time existing or projected, and

(*b*) the provision of the requisite communication with some sewer into which the drainage may lawfully be discharged at a point in the upper half of such sewer, or with some other means of drainage into which the drainage may lawfully be discharged

Building over municipal drain

4. A building shall not be placed over any municipal drain except with the written consent of the General Committee

Passage for access to building from street

5. Where only detached buildings are allowed, the passage affording access to a building from the street must be at least nine feet wide, and shall be sixteen feet wide in any case in which the General Committee may consider it practicable to secure a passage of that width

6. *(Distance between building line and street alignment)—Cancelled by paragraph III of Notification No 543M, dated the 5th March, 1910.*

Part III.—Masonry buildings generally

Foundation

7. (*1*) Except with the sanction of the General Committee, the foundation of a masonry building must rest on solid ground

(*2*) [1][Except with the sanction of the General Committee] the spread of the foundation must be such that the pressure on the soil, taking into account the load on the floors and terrace-roof (if any) referred to in rules 14 and 16 shall not be greater than one ton on the square

(*3*) The levels of the foundation must be such as the General Committee may consider satisfactory

Plinth

[2]**8.** The plinth of a masonry building must be at least two feet above the level of the centre of the nearest street

Provided that the plinth of stables and cow-sheds need not be more than one foot above such level

Footings for walls

9. Every wall of a masonry building must be constructed so as to rest upon proper footings having regular offsets and a horizontal spread on each side of the wall of not less than one-half the height of the footings, unless an adjoining wall interferes, in which case the footings may, subject to the provisions of sub-rule (2) of rule 7, be omitted, where that wall adjoins

[1] These words within square brackets in sub-rule (2) of rule 7 were inserted by paragraph I of Notification No 1078T M, dated the 24th October 1910, published in the Calcutta Gazette, 1910, Pt IB, p 16

[2] This rule was substituted for the original rule 8 by paragraph IV of Notification No 543M dated the 5th March 1910, published in the Calcutta Gazette, 1910, Pt IB, p 30

Part III—Masonry buildings generally—contd

Outer walls

[1]**10.** The outer walls of a masonry building must be constructed of brick or some similar hard and incombustible substance

Bonding of walls

11. All walls of a masonry building must be properly bonded

Damp proof course

12. [2](*1*) Every wall of a masonry building must have a damp-proof course at the level of the ground floor

(*2*) Such damp proof course may consist of sheet lead, asphalt slates laid in cement, vitrified bricks or any other durable material impervious to moisture

Walls in building of more than one storey

13. [3](*1*) If a masonry building exceeds one storey in height,—

(*a*) every wall must be solidly put together with—

(*i*) good cement, or

(*ii*) good lime, or

(*iii*) mortar compounded with good cement and sand or other suitable material, or

(*iv*) mortar compounded with good lime and sand or other suitable material,

(*b*) the proportions of the materials forming such mortar must be such as are approved by the Chairman,

(*c*) no part of any wall, other than a cornice or moulding, shall overhang any part of a wall underneath it, and

(*d*) every wall must be of such thickness as the Chairman may consider necessary to ensure safety, regard being had to the height of the building, the materials of which it is constructed, and the purpose for which it is intended to use it

[4](*2*) Nothing contained in sub-rule (*1*) shall prevent the placing of a second storey upon an existing masonry building the walls of which are certified by the Engineer to the Corporation to be fit to bear the load proposed to be put upon them

Floors

14. The floors of every masonry building must be constructed to bear safely the maximum load to be carried, the allowance for live load not being less than fifty-six pounds on the square foot

(Schedule XVII.—Rules as to the use of building-sites and the erection of building-work.—Rules 15-18.)

Part III.—Masonry buildings generally—concld.

15. (*1*) All beams and girders in a masonry building must be supported by a breadth of brick-work, stone or other solid substance sufficient to secure their stability.

Beams and girders.

(*2*) The bearing of a beam or girder on a wall shall not, without the sanction of the Chairman, be less than three-fourths of the thickness of the wall.

16. Terrace-roofs must be constructed to withstand such load, not less than forty pounds on the square foot, in addition to their own weight, as may be specified by an order of the General Committee.

Terrace roofs.

[1]**16A.** The following further provisions shall have effect in the case of masonry buildings in *bustees*, that is to say,—

Buildings in *bustees*.

(*a*) the owner of the land in a *bustee* on which a masonry building is to be erected shall, if required by the Chairman, give up all land which may be needed for leaving a space of twenty feet from the centre of any *bustee* street provided for under rule 37A or of any *bustee* street or passage shown on any standard plan approved under section 401 or section 407;

(*b*) all land so given up shall vest in the Corporation for the purposes of a street, and the owner shall receive reasonable compensation therefor.

Part IV.—Dwelling-houses and other domestic buildings.

[2]**17.** The total area covered by all the buildings (including verandahs) on any site used for a dwelling-house shall not exceed two-thirds, or, in localities where the erection of only detached buildings is allowed one-third, of the total area of the site;

and the area not so covered shall belong exclusively to the dwelling-house and shall be retained as part and parcel thereof.

Proportion of site for dwelling-house which may be built upon.

[2]**18.** In localities where the erection of only detached buildings is allowed,—

(*a*) the dwelling-house may be placed in any part of the site but not so as to extend beyond any building line prescribed under section 356; and

(*b*) servants' houses, stables and other out-offices within the area of the site shall not exceed fifteen feet in height or twenty feet in depth, and shall not be

Dwelling-houses and out-offices in localities where the erection of only detached buildings is allowed.

(*Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 19-21.*)

Part IV.—Dwelling-houses and other domestic buildings—contd.

placed on more than two sides of the dwelling-house or within twenty-four feet of the dwelling-house.

19. (*Every room of dwelling-house to be open to outer air*)—*Cancelled by paragraph IX of Notification No. 543M., dated the 5th March, 1910.*

Size and ventilation of inhabited rooms.

[1]**20.** Every room in a domestic building which is intended to be used as an inhabited room—

(*a*) must be in every part not less than ten feet in height, measured from the floor to the under-side of the beam on which the roof rests,

(*b*) must have a clear superficial area of not less than eighty square feet, and

(*c*) must be provided, for purposes of ventilation, with doors or windows opening directly into the external air, or into a verandah, and having an aggregate opening of not less than one-fourth of the superficial area of that side or one of those sides of the room which faces or face an open space.

Floor of inhabited room over stable, cattle-shed or cow-house.

[1]**20A.** Every room in a domestic building which is intended to be used as an inhabited room, and which is constructed over a stable, cattle-shed or cow-house, must be separated from the stable, cattle-shed or cow-house by a floor of concrete or other impermeable material.

Ventilation of staircase.

[1]**20B.** In every domestic building constructed or adapted to be occupied in flats, the principal common staircase must be adequately ventilated upon every storey.

Ground floor.

[1]**20C.** The ground-floor of every domestic building must be covered throughout, at the height of the plinth, with some impermeable material approved by the Chairman, unless such floor be supported on beams and has a free air space beneath it.

Interior courtyard of dwelling-house.

21. (*1*) The minimum superficial area of every interior courtyard of a dwelling-house shall be one-fourth of the aggregate floor area of the rooms and verandahs abutting on the courtyard.

(*2*) The minimum width of every such courtyard shall be eight feet.

(*3*) No portion of any face of a dwelling-house abutting on such courtyard shall intersect any of a series of imaginary lines drawn across the courtyard from the opposite face of the house

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[1] The rules 20 to 20C were substituted for the original rule 20 by paragraph X of Notification No. 543M., dated the 5th March, 1910, published in the Calcutta Gazette, 1910, Pt. IB, p. 30.

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 22.)

Part IV.—Dwelling-houses and other domestic buildings.—contd.

at the level of the plinth at an angle of sixty-three and-a-half degrees with the horizontal.

Explanation.—The height of any face of a dwelling house must not exceed twice the width of the courtyard measured from such face to the opposite face.

(4) Notwithstanding anything contained in sub-rule (3), when a dwelling-house has more than two storeys, the storeys above the second shall not be taken into account in applying that sub-rule if they are built on not more than two sides of the house.

Open space in rear of building regulating the rear height.

[1]22. (1) Except in localities where the erection of only detached buildings is allowed, there must be in the rear of every domestic building an open space extending along the entire width of the building and belonging exclusively to the building, unless the back of the building abuts on an open square or the like, of not less than twenty feet in width, which is dedicated to public use and is consequently not likely to be built upon:

Provided that, if the back of such building abuts on a public street which is less than twenty feet in width, an owner, on giving up to the Corporation a sufficient portion of his land to make such public street not less than twenty feet wide, may be allowed to build on the very edge of his remaining land, without being required to leave any such open space.

(2) The minimum distance across such space from every part of the building to the boundary line of the land or building immediately opposite such part shall be ten feet:

Provided that, in the case of any building in which there are both an outer and an inner court-yard, a minimum distance of six feet shall be permitted.

(3) No portion of the building, excluding open or balustraded parapets not more than four feet high, shall intersect any of a series of imaginary lines drawn across such space at an angle of sixty-three-and-a-half degrees with the plane of the ground, such lines being drawn from the line limiting the width of such space at the side thereof which is the more remote from the building, at the level of the plinth of the building:

Provided that, in the case of two-storeyed buildings, the angle shall be increased from sixty-three-and-a-half to sixty-eight degrees.

Explanation.—If the building be placed at the edge of such space, its height measured from the level of the plinth and excluding parapets as aforesaid, must not

[1] The rules 22 to 2[illegible] were substituted for the original rules 2[illegible] to 26 by paragraph XI of Notification No. 543 M., dated the 5th March, 1910, published in the Calcutta Gazette, 1910, Pt. IB, p. 30.

Part IV—Dwelling-houses and other domestic buildings—contd

es the width
the height
the building

after the height is increased intersects any of the aforesaid lines

(*4*) For the purposes of this rule, the rear of a building shall be deemed to be that face which is furthest from any street at the side of which the building is situated

Provided that, where a building is situated at the side of more than one street, the rear of the building shall, unless the Chairman otherwise directs, be deemed to be that face which is furthest from the widest of such streets

Relaxation of rule 22 in case of irregular site

[1]**23.** If any person desires to erect a domestic building, in a street laid out before the commencement of this Act, upon a site which is of such a nature that it is impracticable to provide an open space in the rear of the building of the dimensions prescribed by rule 22, the General Committee may relax the provisions of that rule —

Provided that—

(*a*) such open space shall be left as the General Committee may consider practicable, having regard to all the circumstances of the case, and

(*b*) not more than two-thirds of the total area of the site shall be occupied by masonry buildings or verandahs

Open space at sides of building

[1]**24.** (*1*) Except in localities where the erection of only detached buildings is allowed, if either side of a domestic building is not attached to the adjacent building, and if such side does not abut on an open square or the like which is at least six feet in width, and which is dedicated to public use and is consequently not likely to be built upon,

there must be between the buildings an open space extending along the entire length of such side and belonging exclusively to the said domestic building

Provided that attachment to the adjacent building shall not be allowed [2][except with the permission of the General Committee] if either of the buildings is a dwelling-house

(*2*) The minimum distance across such space from every part of the said domestic building to the boundary line of the land or building immediately opposite such part shall be—

(*a*) six feet, if there is a building next to such boundary line, or

(Schedule XVII —Rules as to the use of building-sites and the execution of building-work —Rules 25-27)

Part IV —Dwelling-houses and other domestic buildings—
concld

(*b*) four feet, if there is an open space on the other side of such boundary line

[1](*3*) Notwithstanding anything contained in this rule, where a site adjacent to the site of a proposed building is not occupied by a masonry building situated within ten feet of the boundary line between the two sites and within twenty-four feet from the frontage of the street on which the two sites abut, the proposed building may, with the sanction of the General Committee, be erected along the said boundary line up to a depth of twenty-four feet from such street frontage unless, in the opinion of the General Committee, there is any objection to any building which may be subsequently erected on the adjacent site being attached to the building so erected

Interior court yards and outward open spaces to be raised and kept open

[2]**25.** (*1*) Every interior court-yard and every open space prescribed by rule 22 or rule 24 must be raised at least one foot above the level of the centre of the nearest street, so as to admit of easy drainage into the street

(*2*) Every interior court-yard and every such open space must be open to the sky throughout its entire area, and must be kept accessible for the purpose of cleansing, and no structure shall be erected within or above, or so as to project over, the same ·

Provided that a one-seated or two-seated connected privy not exceeding forty square feet in floor area, exclusive of walls, may be erected in the open space of ten or more feet left under sub-rule (*2*) of rule 22, and that such privy may have as many storeys over it as there are storeys in the house to which it belongs, each of such storeys being connected with the main building by a gangway or bridge of not more than five feet outside width

Paving of courtyards and open spaces

[2]**25A.** All court-yards in a domestic building, and all other open spaces therein not exceeding six feet in width, shall be paved with some impermeable substance and drained to the satisfaction of the Chairman

Prohibition of rooms over or under privies

[2]**26.** No room other than a bath-room or privy shall be placed over a privy in a domestic building, and no privy shall be placed in a domestic building under any room other than a bath-room or privy.

27. *(Further provisions as to dwelling houses in bustees)—Cancelled by paragraph II of Notification No 164T M., dated the 30th April, 1910*

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[1] This sub-rule (3) was added by Notification No 1172 dated the 7th May 1911 published in the Calcutta Gazette, 1911 Pt IB, p 207

[2] See footnote [1] on p 483, ante

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 28-29D.)

Part V.—Buildings of the warehouse class.

Height of buildings of the warehouse class.

[1] **28.** (*1*) In applying sub-rule (*1*) of rule 2 to any building of the warehouse class situated in a locality in which the erection of buildings of the warehouse class is allowed by declaration under sub-clause (*iii*) of clause (*c*) of section 367, the said sub-rule shall be read as if fifty-six-and-a-half degrees were substituted for forty-five degrees.

(*2*) Sub-rule (*2*) of rule 2 shall not apply to any such building.

Open spaces for buildings of the warehouse class.

[1] **29.** The provisions of rules 22, 24 and 25 as to domestic buildings shall have effect in the case of buildings of the warehouse class which are not situated in a locality in which the erection of buildings of the warehouse class is allowed by declaration under sub-clause (*iii*) of clause (*c*) of section 367.

Floors of certain buildings of the warehouse class.

[1] **29A.** The floor of every building of the warehouse class intended to be used for the manufacture or storage of articles for human consumption shall be constructed of some impermeable material approved by the Chairman.

Open space for loading or unloading carts.

[2] **29B.** (*1*) Every building of the warehouse class must have attached thereto, for the accommodation and passage of carts used for the loading or unloading of goods, an open space, belonging exclusively to the building, of such size as the Chairman may consider sufficient, regard being had to the dimensions of the building and the nature and extent of the business to be carried on therein:

Provided that, if the Chairman considers that any interior court-yard, or any open space provided in pursuance of rule 29, is sufficient for the accommodation and passage of such carts, no separate space need be provided under this rule.

(*2*) No structure which would impede the passage of such carts shall be erected within or above, or so as to project over, any open space provided under this rule.

Part VA.—Public buildings.

Application of Part IV to public buildings.

[2] **29C.** (*1*) The provisions of rules 20, 20A, 20B, 20C, 22, 23, 24, 25, 25A and 26, as to domestic buildings, shall have effect in the case of public buildings.

(*2*) The provisions of rules 17, 18 and 21, [illegible] dwelling-h[illegible] shall have effect in the case of any public b[illegible] which [illegible] structed, used or adapted to be used wh[illegible] principa[illegible] human habitation, or as a school, college [illegible] f instru[illegible]

Use of incombustible or fire resisting materials.

[2] **29D.** The floors of the lobbies, c[illegible] passage[illegible] landings of a public build[illegible] must [illegible] ructe[illegible]

[1] The rules 28, 29 and 29A were substitut[illegible] [illegible] paragraph Notification No. 513M, dated the 5th March, 19[illegible] [illegible] the [illegible] e 1910 p. 30.

[2] The rules 29B to 29M were inserted by No[illegible] [illegible] March published in the Calcutta Gazette, 1911, Pt. IB, [illegible]

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work —Rules 29E, 29F)

Part VI.—Public buildings—contd.

incombustible materials, the doors must be constructed of fire-resisting materials, and the flights of stairs must be constructed either of incombustible materials or of fire-resisting materials

[1] **29E.** The following materials shall, for the purposes of rule 29D, be deemed to be incombustible, namely:— Materials to be deemed incombustible

(*1*) brick-work constructed of good bricks well-burnt hard and sound, properly bonded and solidly put together with—

(*a*) good mortar compounded of good lime and sharp clean sand, hard clean broken brick, broken flint, grit or slag well pulverized, or

(*b*) good cement mixed with any of the materials mentioned in clause (*a*), or

(*2*) granite and other stone which is suitable for building purposes by reason of its solidity and durability,

(*3*) iron, steel and copper,

(*4*) slate, tiles, bricks and terra-cotta, when used for coverings or corbels,

(*5*) flag-stones, when used for floors over arches, if not exposed on the underside and if not supported at the ends only,

(*6*) concrete, composed of—

(*i*) broken brick, stone chippings or ballast, and lime concrete or calcined gypsum—when the concrete is used for filling in between joists of floors to a depth of less than five inches, or

(*ii*) properly burned coke breeze, free from dust and organic impurities, and good cement, in the following proportions namely, five parts of coke breeze to one part of good cement mixed together with clean water—when the concrete is used for filling-in between the joists of floors to a depth of five inches or more, and

(*7*) any material approved in this behalf from time to time by the General Committee

[1] **29F.** The following materials shall, for the purposes of rule 29D, be deemed to be fire resisting, but not incombustible, namely — Materials to be deemed to be fire-resisting but not incombustible

(*a*) *sál* teak and other hard timber, when used for beams or posts or in combination with iron, the timber and

[1] *See* footnote [1] on page 49?, *ante*

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 29G-29M.)

Part VA.—Public buildings—concld.

the iron (if any) being protected by plastering in cement or other incombustible or non-conducting external coating,

(*b*) in the case of doors, *sál*, teak or other hard timber not less than two inches thick, and

(*c*) in the case of staircases, *sál*, teak or other hard timber, the treads and risers being not less than one inch and a half thick.

Walls for staircases.

[1]**29G.** The walls supporting or enclosing any staircase in a public building must be of masonry and not less than ten inches thick.

Uniformity in treads and risers in staircases.

[1]**29H.** The treads and risers of each flight of stairs in a public building must be of uniform width.

Width of staircase, internal corridors and passage-ways.

[1]**29J.** (*1*) No staircase, internal corridor, or passage-way in a public building shall be less than six feet wide:

Provided that where not more than two hundred persons are to be accommodated in any public building, any staircase, internal corridor or passage-way may be of any width not less than three feet six inches.

(*2*) Every staircase, internal corridor, or passage-way in a public building which communicates with any portion of the building intended for the accommodation of more than four hundred persons must be wider than six feet by six inches for every hundred persons over four hundred, subject to a maximum width of nine feet.

(*3*) Notwithstanding anything contained in sub-rules (*1*) and (*2*) instead of a single staircase, corridor or passage-way of the width prescribed by sub-rule (*2*) there may be two staircases, corridors or passage-ways, each being of a width equal to at least two-thirds of the width so prescribed.

Division of wide staircase by hand rail.

[1]**29K.** If the width of any staircase in a public building is eight feet or more, the staircase must be divided by a hand rail.

Separate means of exit from floors of different levels.

[1]**29L.** If some of the persons accommodated in a public building are placed on a higher floor than others, separate means of exit, of the width prescribed by sub-rule (*1*), sub-rule (*2*) or sub-rule (*3*), as the case may be, of rule 29J, and communicating directly with a public street or an open space, must be provided for each floor:

Provided that this rule shall not apply to a hotel, lodging-house, home, refuge or shelter.

Doors and barriers to open outwards.

[1]**29M.** All doors and barriers in a public building must be made to open outwards, and no outside locks or bolts shall be affixed thereto.

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[1] *See* footnote [1] on page 4?, *ante*.

Walls for staircases

Uniformity in treads and risers in staircases

Width of staircases, internal corridors and passage ways

Division of wide staircase by hand rail

Separate means of exit from floors on different levels

(2)

(Schedule XVII —Rules as to the use of building sites and the execution of building work - Rules 32 34)

Part VI —Applications for approval of sites for and for permission to erect or re erect masonry buildings—contd

(*iii*) such other particulars as may be prescribed by the General Committee

Explanation to clause (i) —If the site is intended to use the building or any part thereof for any of the purposes specified in Schedule XVIII or as a stable cattle shed or cow house the fact must be expressly stated

32. An application for approval of a site for and an application for permission to erect or re erect a masonry building may if the applicant so desires be sent together — Option to send such applications together

33. (*1*) The plans elevations and sections referred to in section 37 must be signed clearly and in a prominent place by the owner of the building — Signature of plans elevations and sections

(*2*) If the said documents have been prepared by an Architect or an Engineer they may be signed by him as well as by the owner

34 (*1*) All information and documents which it may be found necessary to require and all objections which it may be found necessary to make before deciding whether a site should be approved for a masonry building or whether permission to erect or re erect a masonry building should be given shall be respectively required and made in one requisition and the applicant shall be apprised thereof at the earliest possible date — Formulation of requirements and objections

(*2*) Within thirty days after the receipt of any application under section [illegible]0 for approval of a site the Chairman may require the applicant—

(*a*) to furnish him with any information on matters referred to in that section which has not already been given in the documents received thereunder or

(*b*) to satisfy him that there are no objections which may lawfully to taken on any of the grounds mentioned in section 377 to the approval of the site

(*3*) Within thirty days after the receipt of any application under section 370 for permission to execute work the Chairman may require the applicant—

(*i*) to furnish him with any information on matters referred to in that section which has not already been given in the documents received thereunder or with any document prescribed by that section which has not been sent in or

(*ii*) to satisfy him that there are no objections which may lawfully be taken on any of the grounds mentioned in section 377 to the grant of permission to execute the work

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 31.)

Part VI.—Applications for approval of sites for, and for permission to erect or re-erect, masonry buildings—contd.

(*k*) the width of the street (if any) in front, and of the street (if any) at the rear, of the building; and

(*l*) such other particulars as may be prescribed by the General Committee.

Application to be sent and particulars furnished by person intending to erect or re-erect a masonry building.

[1]**31.** (*1*) Every application for permission to erect or re-erect a masonry building must be written on a printed form (to be supplied by the Chairman free of charge), and must state the description of the building, its dimensions, and such other particulars as may be prescribed by the General Committee.

(*2*) The plan of the building and the elevations and sections accompanying such an application must be neatly and accurately drawn to a scale of not less than one-eighth of an inch to a foot and must be sent in triplicate, and the said plan must show—

(*a*) the levels and width of the foundation of the building,

(*b*) the level of the lowest floor of the building, and

(*c*) the level of all court-yards and open spaces in the building or premises, and the plinth-level of buildings, with reference to the level at the centre of the nearest street.

(*3*) The specification accompanying such an application must comprise full information as to the following particulars, namely:—

(*i*) the materials and method of construction to be used for external walls, party walls, foundations, roofs, floors, fire-places and chimneys;

(*ii*) the manner in which roof and house drainage and the surface drainage of land will be disposed of;

(*iii*) the manner (if any) in which it is proposed to pave the court-yards and open spaces in the building or premises, and the slope to which the surface is to be made in each case;

(*iv*) the means of access that will be available to scavengers to get to service privies;

(*v*) the purpose for which it is intended to use the building;

(*vi*) if the building is intended to be used as a dwelling-house for two or more families, or as a place for carrying on any trade or business in which more than twenty people may be employed, or as a place of public resort,—the means of ingress and egress; and

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[1] *See footnote [1] on page 49a, ante.*

of 1899.]

(Schedule XVII—Rules as to the use of building-sites and the execution of building-work—Rules 32-34)

Part VI—Applications for approval of sites for, and for permission to erect or re-erect, masonry buildings—contd

(*vii*) such other particulars as may be prescribed by the General Committee

Explanation to clause (*v*)—If it is intended to use the building or any part thereof for any of the purposes specified in Schedule XVIII or as a stable cattle shed or cow house the fact must be expressly stated

32. An application for approval of a site for, and an application for permission to erect or re-erect, a masonry building may, if the applicant so desires, be sent together — Option to send such applications together

33. (*1*) The plans elevations and sections referred to in section 37 must be signed clearly and in a prominent place by the owner of the building — Signature of plans elevations and sections

(*2*) If the said documents have been prepared by an Architect or an Engineer they may be signed by him as well as by the owner

34. (*1*) All information and documents which it may be found necessary to require, and all objections which it may be found necessary to make before deciding whether a site should be approved for a masonry building, or whether permission to erect or re-erect a masonry building should be given, shall be respectively required and made in one requisition, and the applicant shall be apprised thereof at the earliest possible date — Formulation of requirements and objections

(*2*) Within thirty days after the receipt of any application under section 370 for approval of a site, the Chairman may require the applicant—

(*a*) to furnish him with any information on matters referred to in that section which has not already been given in the documents received thereunder, or

(*b*) to satisfy him that there are no objections which may lawfully to taken, on any of the grounds mentioned in section 377, to the approval of the site

(*3*) Within thirty days after the receipt of any application under section 370 for permission to execute work, the Chairman may require the applicant—

(*i*) to furnish him with any information on matters referred to in that section which has not already been given in the documents received thereunder, or with any document prescribed by that section, which has not been sent in, or

(*ii*) to satisfy him that there are no objections which may lawfully be taken, on any of the grounds mentioned in section 377, to the grant of permission to execute the work.

(*Schedule XVII—Rules as to the use of building-sites and the execution of building-work—Rules 35-38*)

Part VI—Applications for approval of sites for, and for permissions to erect or re-erect masonry buildings—concld

(*4*) If any information or documents required under sub-rule (*2*) or sub-rule (*3*) is or are, in the opinion of the Chairman incomplete or defective, he may, within thirty days after the receipt of the same, require further information or documents to be furnished

(*5*) If any requisition made under sub-rule (*2*), sub-rule(*3*) or sub-rule (*4*) is not complied with within three months, the application received under section 370 shall be deemed not to have been made

Chairman to sign approved plans

35. When the Chairman has approved any site-plan or given permission to execute any work, he shall sign such site-plan or the approved plans of the work, as the case may be

Retention of plan and submission of fresh application after refusal to approve site or to permit execution of work

[1]**36.** When approval to a site for a masonry building, or permission to erect or re-erect a masonry building, is refused,—

(*a*) the Chairman may retain one copy of the site-plan or the plan of the building, as the case may be, and

(*b*) the applicant may at any time send to the Chairman a fresh application and fresh or modified documents under section 370, framed with the object of meeting the objections for which such approval or permission was refused

Part VII—Huts.

Continuous lines

[2]**37.** Huts in a *bustee* must be built in continuous lines, in accordance with an alignment to be prescribed by the General Committee, after hearing the objections (if any) of the owner of the *bustee*, and demarcated on the ground

Bustee streets

[2]**37A.** (*1*) In prescribing an alignment under rule 37, in any *bustee* of which a standard plan has not been approved under this Act or any prior Act or under any rules made under this Act, the General Committee may leave, in such places as they think fit, a space of not more than twenty feet in width for a *bustee* street

(*2*) Such *bustee* streets shall not ordinarily be more than two hundred feet apart, and no hut or portion of a hut shall be built upon or project over them.

Distance between eaves and alignment

[2]**38.** Where an alignment prescribed under rule 37 does not correspond with the alignment of a street in a *bustee*, or of a *bustee* street referred to in rule 37 A, no hut shall be built

(Schedule XVII—Rules as to the use of building-sites and the erection of building-work—Rules 39-46.)

Part VII—Huts—contd

so that the distance measured from its eave to such alignment is less than six feet.

Use of *bustee* streets and of spaces referred to in rule 38.

[1]**39.** All *bustee* streets referred to in rule 37A, and all spaces referred to in rule 38, between a hut and an alignment, shall remain private property, subject to a right in the municipal authorities to send carts along them or otherwise make use of them for any of the purposes of this Act.

Building of huts in a *bustee* in court-yard formation.

[1]**40.** Notwithstanding anything contained in rule 37, huts in a *bustee* may, with the special sanction of the General Committee, be built so as to form an open court-yard, comprising at least one-fourth of the whole area occupied by the huts and court-yard:

Provided that no portion of such huts shall be built upon a *bustee* street referred to in rule 37A.

Site of huts not in a *bustee* which form an open court-yard.

[1]**40A.** Where huts other than huts in a *bustee* are built so as to form an open court-yard, the area of the court-yard shall not be less than one-fourth of the area occupied by the huts and court-yard.

Space.

[1]**41.** There shall be between all huts a space of at least three feet measured from eave to eave.

Distance of huts from metalled and sewered street.

[1]**42.** Except with the sanction of the General Committee, no hut shall be placed at a greater distance than one hundred feet from the nearest part of a metalled and sewered street, unless there be a municipal or *bustee* drain at a distance of not more than twenty feet from the site.

Distance between hut and masonry building.

43. No portion of a hut shall be placed within six feet of a masonry building:

Provided that this rule shall not preclude the erection of huts in compounds in any case where masonry out-offices would be permissible.

Prohibition of projections or dropping of water over street or passage.

44. Every hut abutting on a street or passage, whether public or private, must be constructed so as not to project over, or admit of water from the roof falling upon, or injuring, the street or passage.

Height.

[2]**45.** No hut shall comprise more than two storeys, or shall exceed twenty feet in height, measured from the top of the plinth to the junction of the eaves and wall.

Plinth.

46. The plinth of a hut must be raised at least two feet above the level of the centre of the nearest street or passage.

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[1] See foot-note [1] on page 4 8, *ante*.

[2] This rule was substituted for the original rule 45 by paragraph XVI of Notification No. 513 M., dated the 5th March, 1910, published in the Calcutta Gazette, 1910, Pt. IB, p. 20.

(Schedule XVII.—Rules as to the use of building sites and the execution of building work.—Rules 46A-47)

Part VII.—Huts—concld.

Rooms

[1]**46A.** (*1*) The whole of at least one side of every room in a hut must either be an external wall or abut on an open court-yard or on a verandah.

(*2*) Every room in a hut, which is intended to be used as an inhabited room,—

(*a*) shall be provided with a door-way of not less than fifteen square feet in area,

(*b*) shall have a superficial area of not less than eighty square feet, and

(*c*) shall have a height of not less than eight feet measured from the top of the plinth to the junction of the wall with the roof.

Court-yards

[1]**46B.** (*1*) The court-yard (if any) of a hut shall be so raised that the upper surface shall be one foot above the level of the nearest street or passage, and shall be drained into the nearest drain.

(*2*) The width of such court-yard shall be not less than eight feet.

Part VIII.—Applications for permission to erect or re-erect huts.

Application for permission to erect or re-erect a hut.

47. (*1*) Every application for permission to erect or re-erect a hut must be written on a printed form to be supplied by the Chairman free of charge.

(*2*) If it is intended to use the hut or any part thereof for any of the purposes specified in Schedule XVIII, or as a stable, cattle-shed, or cow-house, the fact must be expressly stated in the said application.

(*3*) [2][The site-plan sent with such an application must be drawn to a scale of not less than one eighth of an inch to a foot, must be sent in triplicate, and must show]—

(*i*) the hut,

(*ii*) the privy provided or to be provided for the use of occupants of the hut,

(*iii*) the means of access to the hut from the street or passage on which it abuts,

(*iv*) the position of the hut in relation to all huts, streets, passages, privies and tanks within a distance of fifty feet from the site, and

(*v*) such other particulars as may be prescribed by the

(Schedule XVII —Rules as to the use of building sites and the execution of building work —Rules 48 51)

Part VIII —Applications for permission to erect or re erect huts—contd

48. (*1*) The Chairman may require the applicant— Power of Chairman to require further information or a proper site plan

(*a*) to furnish him with any information on matters referred to in section 384 which has not already been given in the documents received thereunder or with a proper site plan as prescribed by that section, or

(*b*) to satisfy him that there are no objections which may lawfully be taken on any of the grounds mentioned in section 389 to the grant of permission to execute the work

(*2*) If any information or plan required under sub section (*1*) is in the opinion of the Chairman incomplete or defective he may require further information or a fresh plan to be furnished

(*3*) If any requisition made under sub rule (*1*) or sub rule (*2*) is not complied with within one month, the application received under section 384 shall be deemed not to have been made

[1]**49.** When permission to erect or re erect a hut refused,— Retention of plan and submission of fresh application after refusal of permission to erect or re-erect a hut

(*a*) The Chairman may retain one copy of the plan, and

(*b*) the applicant may at any time send to the Chairman a fresh application and a fresh or modified plan under section 384, framed with the object of meeting the objections for which such permission was refused

Part IX —Application of rules to alterations of, and additions to, buildings

50. In applying rule 2 in the case of an alteration of, or addition to any building which was erected before the commencement of this Act the angle at which the lines referred to in sub rule (*1*) of that rule are to be drawn shall be fifty-six and-a half degrees instead of forty five degrees Relaxation of rule [2]

Provided that nothing contained in this rule shall authorize any addition to a building which would make it higher than any building which, at the commencement of this Act, is standing [3][in the same place]

51. *(Restriction on application of rule 27)—Cancelled by para II of Notification No 164 T M, dated the 30th April 1910*

IX of Notification ... IB p. 30. ... same ... by para ... Calcutta Gazette ... 1911 ... IB p 30

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work—Rules 52, 53)

Part IX—Application of rules to alterations of, and additions to, buildings—contd.

Restriction on application of rules 30 to 36 or 47 to 49

52. (*1*) Rules 30 to 36, or rules 47 to 49, as the case may be, shall not be applied in the case of any alteration of, or addition to, a building unless one or more of the following works is or are undertaken, namely:—

(*a*) the construction of a roof or an external or party wall,

(*b*) any repairs to the building which involve the re-construction of a masonry wall, a lift-shaft or a chimney after the same has been entirely or in great part demolished,

(*c*) the closing of any door or window in an external wall,

(*d*) the construction of an internal wall or partition,

(*e*) any other alteration of the internal arrangements of a building which affects an alteration of its court-yard or court-yards or its drainage, ventilation or sanitary arrangements, or which affects its security,

(*f*) the addition of any building, room, out-house or other structure,

(*g*) the roofing of any space between one or more walls and buildings,

(*h*) the conversion into more than one place for human habitation of a building originally constructed as one such place,

(*j*) the conversion of two or more places of human habitation into a greater number of such places,

(*k*) the alteration of a building for the purpose of effecting a partition amongst joint owners.

(*2*) In the case referred to in clause (*g*) of sub-rule (*1*), the said rules 30 to 36 or rules 47 to 49, as the case may be, shall apply only as regards the structure which is formed by roofing a space, and not as regards adjoining buildings.

Grant of provisional permission to proceed with work in cases of urgency

53. (*1*) If, in any case of urgency arising from causes beyond his own control, any person desires to undertake without delay any of the works referred to in rule 52, he may send to the Chairman an application for provisional permission to proceed with the work.

(*2*) Such application must contain an explanation of the urgency and a general description of the work proposed to be undertaken.

(*3*) Within a period of three days after the receipt of any such application, the Chairman shall, by written order, either grant or refuse to grant provisional permission to proceed with the work.

(4) If, within the said period of three days, the Chairman has neither granted nor refused to grant such provisional permission, the same shall be deemed to have been granted

(5) Whenever such provisional permission is granted, and in any case provided for by sub-rule (4), the applicant must, within fifteen days, send to the Chairman a regular application for permission to execute the work, and if he fails to do so, the provisional permission shall be deemed to be withdrawn

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SCHEDULE XVIII

CERTAIN PURPOSES FOR WHICH PREMISES MAY NOT BE USED WITHOUT A LICENSE

[See sections 466, 472, 582 and 583, and Schedule XVII, rules 31 (3) and 47 (2)]

(1) Casting metals

(2) Manufacturing bricks pottery or tiles

(3) As a knacker's yard

(4) As a hide godown or hide screw-house

(5) As a manufactory or place of business from which offensive or unwholesome smells, fumes or dust arise

(6) As a depôt for hay, straw, wood, coal or rags

(7) Picking, pressing, cleansing, preparing or manufacturing by any process whatever, any of the following articles, namely —

cloths in indigo or other colours,	pottery,
paper,	silk

(8) Storing, picking, pressing, cleansing, preparing or manufacturing, by any process whatever, any of the following articles, namely —

* blasting powder,	china grass,
blood,	cocoanut fibre,
bones,	* cotton, or cotton refuse,
candles,	or seed,
catgut,	dammer,
chemical preparations,	dynamite,

* The stacking of pressed bales of cotton is excepted

(Schedule XVIII.—Certain purposes for which premises may not to be used without a license.)

fat
fins
fireworks
fish
flax
flour
fulminate of mercury
gas
gun cotton
gunpowder
hair
hemp
hides
hoofs
horns
iron
jute
leather
lime
manure
matches for lighting
meat
nitro glycerine
offal
oil
oil cloth
pitch
rags
rosin
saltpetre
skins
soap
spirits
sulphur
surki
tallow
tar
tow
turpentine
wool

SCHEDULE XIX

REGISTRATION OF BIRTHS

(*See sections 530, 531 and 567*)

19 *Births in the district of*

1	2	3	4	5	6	7	8	9	10	11
Number	When born	Where born	Nationality or caste	Name, if any	Sex	Name of father	Profession of father	Signature, description and residence of informant	When registered	Signature of Registrar

SCHEDULE XX.

Registration of Deaths.

(See sections 530, 532, 533, 536 and 567.)

19 . *Deaths in the district of* .

1	2	3	4	5	6	7	8	9	10	11	12	13	14
Number	When died	Nationality or caste	Name.	Sex	Age	Profession	*Cause of death*	Name of medical attendant if any during last illness	Residence at time of death	Residence *previous* to last illness.	Signature description and residence of informant	When registered	Signature of Registrar

of 1899.]

(Schedule XXI.—Form of notice to be affixed on premises when other means of service not available.)

SCHEDULE XXI.

FORM OF NOTICE TO BE AFFIXED ON PREMISES WHEN OTHER MEANS OF SERVICE NOT AVAILABLE.

(See sections 592 and 593.)

[THIS NOTICE TO BE ISSUED ON YELLOW PAPER.]

To *(name and address)*, or

To the owner or occupier of *(number of building or description of land and number of premises in assessment-book.)*

Take notice that a bill *(or, as the case may be)* has been issued against you to the following effect *(state the substance of the document)*, and that you are required to *(state the requirement as mentioned in the document.)*

(Signed.)

BENGAL ACT I OF 1900

(The Darjeeling Municipal Act, 1900)

CONTENTS

SECTION

BENGAL ACT I OF 1900.

(THE DARJEELING MUNICIPAL ACT, 1900)[1].

(7th March, 1900.)

An Act to amend the Bengal Municipal Act, 1884,[2] in its application to Darjeeling.

Whereas it is expedient to amend the Bengal Municipal Act, 1884,[2] in its application to Darjeeling, * * * * *[3];

It is hereby enacted as follows:—

1. This Act may be called the Darjeeling Municipal Act, 1900. Short title.

PART I

2. The Bengal Municipal Act, 1884,[2] as amended by this Act, shall extend to the Darjeeling Municipality as constituted for the time being under the said Bengal Municipal Act, 1884. Application of Bengal Act 3 of 1884 to Darjeeling.

3. The Local Government, on the recommendation of the Commissioners at a meeting may, by notification[4] in the Calcutta Gazette declare that any area within the Darjeeling District and adjacent to the Darjeeling Municipality shall be deemed to be included within that municipality for the purposes of such portions of the Bengal Municipal Act, 1884[2], as amended by this Act, as may be specified in that behalf in such notification. Power to include adjacent areas within the Darjeeling Municipality for certain purposes.

4. To section 6 of the Bengal Municipal Act, 1884,[2] the following shall be added, namely:— Amendment of section 6.

(20) to (3?) [Printed in Vol. II of this Code.]

5. After section 6 of the said Act[5] the following shall be inserted, namely:— Insertion of new section 6A.

6A. [Printed in Vol. II of this Code.]

1899,
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rnment of certain
led by the Repeal
That Act is now

atutory Rules and

(*Secs 6-18*)

Restriction on application of sections 175 to 182

6. Sections 175 to 182 of the said Act[1] shall not apply in the case of any notice issued under any of the clauses enacted by this Act or under any rule or by-law made under any such clause

Insertion of new sections 182A and 182B

7. After section 182 of the said Act[1] the following shall be inserted namely —

182A, 182B [Printed in Vol II of this Code.]

Amendment of section 191

8. For the words "after six hours' notice in writing" in section 191 of the said Act,[1] the words "without giving notice" shall be substituted

Amendment of section 201

9. In section 201 of the said Act[1] for the words "any road" and the words "part of a road," wherever they occur, the words "any public road" and the words "part of a public road" shall respectively be substituted.

Insertion of new sections 201A to 201G

10. After section 201 of the said Act[1] the following shall be inserted, namely —

201A to 201G [Printed in Vol II of this Code]

Substitution of new sections 207 and 207A for section 207

11. For section 207 of the said Act[1] the following shall be substituted, namely —

207 207A [Printed in Vol II of this Code]

Insertion of new sections 210B and 210C

12. After section 210A of the said Act[1] the following shall be inserted namely —

210B 210C [Printed in Vol II of this Code]

Amendment of section 220

13. To section 220 of the said Act[1] the following shall be added, namely —

[Printed in Vol II of this Code]

Insertion of new sections 224A to 224C

14. After section 224 of the said Act[1] the following shall be inserted, namely —

224A to 224C [Printed in Vol II of this Code]

Substitution of new sections for sections 227 and 228

15. For sections 227 and 228 of the said Act[1] the following shall be substituted namely —

227, 228 [Printed in Vol II of this Code]

Insertion of new section 229A.

16. After section 229 of the said Act[1] the following shall be inserted, namely —

229A [Printed in Vol II of this Code]

Insertion of new sections 236 to 244Z

17. For sections 236 to 244 of the said Act[1] and the heading prefixed thereto, the following shall be substituted, namely —

BUILDING REGULATIONS

236 to 244Z. [Printed in Vol II of this Code]

Insertion of new sections 248A to 248E

18. After section 248 of the said Act[1] the following shall be inserted, namely —

REVETTING, TURFING AND SLOPING

to 248E [Printed in Vol II of this Code]

[1] Bengal Municipal Act, 1884 It is printed in Vol II of this Code

(Secs 19 28—Schedules A C)

19. After section 272 of the said Act[1] the following shall be inserted, namely — Insertion of new sections 272A to 272E

272A to 272E [Printed in Vol II of this Code]

20. For section 350A of the said Act[1] the following shall be substituted, namely — Insertion of new sections 350A and 350B

350A, 350B [Printed in Vol II of this Code]

21. After section 351A of the said Act[1] the following shall be inserted namely — Insertion of new sections 351B to 351H

351B to 351H [Printed in Vol II of this Code]

22. After the Sixth Schedule to the said Act[1] the Schedules marked respectively A, B, C and D shall be added Addition of new Schedules A to D

23. *(Repeal) Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

PART II—TEMPORARY PROVISIONS

Sectio[n] ... Part II, Compensation ... for Commissioners ... 1884, Delegation of c... s and duties) Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II

SCHEDULE A

[Printed in Vol II of this Code]

SCHEDULE B

[Printed in Vol II of this Code]

SCHEDULE C

[Printed in Vol II of this Code]

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[1] The Bengal Municipal Act 1884 It is printed in Vol II of this Code

(*Schedules D, E, F, G*)

SCHEDULE D

[Printed in Vol II of this Code]

(*Schedule E Repeal of certain portions of the Bengal Municipal Act, 1884*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

(*Schedule F Temporary amendment of certain portions of the Bengal Municipal Act, 1884*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

(*Schedule G Portions of the Bengal Municipal Act, 1884 the powers or duties conferred or imposed by which on the Local Government may not be delegated*) *Rep by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II*

BENGAL ACT 3 OF 1900

(THE BENGAL CRUELTY TO ANIMALS ACT, 1900)[1]

(9th May, 1900)

An Act to amend Bengal Act 1 of 1869[2] (an Act for the prevention of cruelty to animals.)

Whereas it is expedient to amend Bengal Act 1 of 1869[2] (*an Act for the prevention of cruelty to animals*),

It is hereby enacted as follows:—

1. For section 1 of Bengal Act 1 of 1869[2] (*an Act for the prevention of cruelty to animals*) the following shall be substituted, namely:— *Amendment of section 1 of Bengal Act 1 of 1869*

[Printed in Vol. II of this Code.]

2. For section 5 of the said Act[2] the following shall be substituted, namely:— *Amendment of section 5 of Bengal Act 1 of 1869*

5 to 5C. [Printed in Vol. II of this Code.]

3. (*1*) This Act may be called the Bengal Cruelty to Animals Act, 1900. *Short titles*

(*2*) This Act, the aforesaid Bengal Act 1 of 1869,[2] and Bengal Act 3 of 1869[2] (*an Act to enable Police-officers to arrest without warrant persons guilty of cruelty to animals*) may be cited together as the Bengal Cruelty to Animals Acts, 1869 to 1900.

Reasons, see Calcutta Gazette, 1900, ...ry, 1900, Special Supplement p. 55..,

...e as that of Bengal Act 1 of 1869,

BENGAL ACT I OF 1900

[THE CALCUTTA TRAMWAYS (ELECTRIC TRACTION) ACT 1900][1].

(22nd August, 1900)

An Act to give effect to an agreement made on the 9th December, 1899, between the Corporation of Calcutta and the Calcutta Tramways Company, Limited.

Whereas an agreement, a copy whereof is set forth in the Schedule to this Act, was made between the Corporation of Calcutta and the Calcutta Tramways Company, Limited, on the 9th December, 1899;

And whereas it is declared in the said agreement that the same shall be subject to sanction and authorization by an Act of the Bengal Legislative Council to be thereafter passed for the purpose;

And whereas it is expedient that such sanction and authorization should be given,

It is hereby enacted as follows —

Short title

1. This Act may be called the Calcutta Tramways (Electric Traction) Act, 1900.

Sanction to the agreement

2. The agreement, a copy whereof is set forth in the Schedule to this Act, is hereby sanctioned and authorized,

and the concessions or contracts, dated respectively the 2nd October, 1879, and the 22nd November, 1879, and the agreement of the 2nd September, 1893, in such agreement mentioned [2], and the Calcutta Tramways Act 1880 [3], and the Calcutta Tramways Act, 1894 [4], shall, so far as may be necessary to validate and give effect to such agreement, be extended, varied or modified

THE SCHEDULE

[5] *Agreement, dated 9th December, 1899, between the Corporation of Calcutta and the Calcutta Tramways Company, Limited*

ARTICLES of agreement made this ninth day of December, 1899, BETWEEN THE CORPORATION OF CALCUTTA constituted

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of
of

ol II of this Code, and
ol

(*The Schedule*)

Ben Act 2 of 1888 by and under the Calcutta Municipal Consolidation Act 1888,[1] of the Bengal Legislative Council, hereinafter called the Corporation of the one part, and THE CALCUTTA TRAMWAYS COMPANY, LIMITED, a Company incorporated under the English Companies' Acts, having its registered office at 11, Abchurch Lane, London, hereinafter called the Company, of the other part

Whereas, by two Concessions or Contracts the first thereof being dated the 2nd October, 1879, and made between the Corporation of the town of Calcutta constituted by and under Act 4 of 1876 [2] of the Bengal Legislative Council of the one part and Dillwyn Parrish, Alfred Parrish and Robinson Souttar, in such Concession or Contract described and therein and hereinafter referred to as the grantees, of the other part and the second Concession or Contract being dated the 22nd November, 1879, and made between the Chairman of the Municipal Commissioners of the Suburbs of Calcutta, a body created and rendered corporate by Act 5 of 1876 [3] of the Bengal Legislative Council, of the one part, and the said Dillwyn Parrish, Alfred Parrish and Robinson Souttar as grantees, of the other part, which Concessions or Co [illegible] sanction of the Lieutenant- [illegible] sanctioned by an Act of the [illegible]

Ben Act 1 of 1880 the Calcutta Tramways Act 1880 [4], the grantees, their heirs executors, administrators and assigns were authorized to construct, maintain and use, in the manner, upon the terms and subject to the conditions and provisions in the said Concessions or Contracts respectively expressed and contained, certain lines of tramway therein respectively referred to in Calcutta and the Suburbs thereof respectively, and were also entitled, subject to the conditions and provisions in the said Concessions or Contracts respectively expressed and contained, to the exclusive right of laying and constructing, maintaining and using a tramway or tramways within the limits of the Calcutta Municipality and of laying, constructing maintaining and using a tramway or tramways within the limits of the Calcutta Suburban Municipality,

AND whereas the Corporation are, under and by virtue of Act 2 of 1888 [1] of the Bengal Legislative Council, the successors of the Corporation of the Town of Calcutta, parties of the first part to the said Concession or Contract of 2nd October, 1879, and of the Chairman of the Municipal Commissioners of the Suburbs of Calcutta, party of the first part to the said

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[1] [illegible] the Calcutta Municipal Act 1899 [illegible] Act 2 of 1888 which again has been [illegible] (Ben Act 3 of 1899), printed *ante* p 219

[3] Ben Act of 1876 has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben Act 3 of 1884) printed in Vol II of this Code

[4] Printed in Vol II of this Code

(The Schedule.)

Concession or Contract of the 22nd November, 1879 and the Company are the assignees of the grantees, parties of the second part to the said Concessions or Contracts of the 2nd October, 1879, and 22nd November, 1879, respectively AND WHEREAS, by the said Concession or Contract of the 2nd October, 1879, it was agreed that in consideration of such Concession the grantees would pay rent at the several rates therein specified for the several periods in the said Concession or Contract mentioned,

AND WHEREAS it was by the said Concession or Contract of the 2nd October, 1879, further agreed and provided that the Corporation of the town of Calcutta and their successors should have the right of purchasing the said tramways, with the plant, buildings stores, rolling stock and everything connected therewith upon the expiration of twenty-one years from the commencement of the said Concession or Contract, upon declaring their intention so to do in writing not less than six months before the expiration of the said twenty-one years, and should have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given, and the consideration for such purchase should be a cash payment of one and two-fifths of the amount of the invested capital of the said grantees or securities of the Government of India or securities the interest whereon should be guaranteed by the Secretary of State for India in Council or debentures of the said Corporation of such amount as to produce, at the rate of interest current on such securities, 7 *per cent per annum* on the amount of the said invested capital, and, if the consideration for such purchase should be given in such securities as aforesaid, the grantees should be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways which should have been purchased from them,

AND WHEREAS, by an agreement bearing date the 2nd day of September, 1893, and made between the Corporation of the one part and the Company of the other part such agreement being sanctioned by Act 3 of 1894 [1] of the Bengal Legislative Council, after reciting *inter alia* that under and by virtue of the 17th Clause of the said Concession or Contract of the 2nd day of October, 1879, the rent then payable by the said Calcutta Tramways Company, Limited, to the said Corporation of Calcutta was calculated at the rate of Rs 3,250 *per annum* per mile of double line and Rs 2,250 *per annum* per mile of single line, it was in reference thereto agreed that the rent payable by the said [illegible] 1st January, 1894, to th[illegible] 1 of the 21st year referen[illegible] the 2nd October, 1879, should be calculated and paid at the said

[1] The Calcutta Tramways Act, 1894 It is printed *ante*, p 51

(*The Schedule*)

rate of Rs 3,250 *per annum* per mile of double line and Rs 2,250 *per annum* per mile of single line, anything in the said Concession or Contract of the 2nd October, 1879, to the contrary notwithstanding, and the said agreement contained a proviso, which has since become inoperative, that a remission of Rs 15,000 a year should be granted for five years with effect from 1894 subject to the condition that the dividends declared by the Company should not exceed 3½ *per cent. per annum* during that period,

AND WHEREAS the said Company some time since proposed to the Corporation to substitute electric traction for horse-power traction heretofore employed in the working of the tramways approved of by the Corporation and constructed and maintained by the Company, and to make such alterations in the construction of the said tramways as might be necessary to render the lines suitable to the adoption of such substituted traction, to which proposal the said Corporation assented,

AND WHEREAS the said Company have, with the assent of the said Corporation, already effected the necessary alteration in the construction of portions of the said tramways,

AND WHEREAS the parties hereto have deemed it expedient and have . the sanction and authorization of the Bengal Legislative Council, 1 or Contracts of the 2nd October, 1879, and of the 22nd November, 1879, and the said agreement of the 2nd September, 1893 shall be varied or modified to the extent and in the manner hereinafter appearing,

NOW THESE PRESENTS WITNESS that, subject to the sanction and authorization thereof by an Act of the Bengal Legislative Council to be hereafter passed for the purpose, and in consideration of the said mutual agreement and of the covenants hereinafter contained and on the part of the said Corporation and of the said Company, respectively, to be observed and performed, the Corporation do hereby covenant with the Company and its assigns, and the Company for itself and its assigns doth hereby convenant with the Corporation, in manner following, that is to say —

1. Preparatory to the introduction of the system of electric traction hereinafter mentioned, the Company will in a good and substantial manner alter and re-construct the several tramways in Calcutta constructed and now maintained by the Company and specified in the Schedule hereto, and all other tramways in Calcutta now maintained by the Company other than the tramways specified in the said Schedule, by removing therefrom the rails of the pattern and weight hitherto laid and maintained by the Company in connection with and for the purposes of the system of horse-power traction at present employed in working the said tramways, and by substituting for such rails in the existing gauge rails of such pattern and

(The Schedule)

weight as shall in the opinion of the Engineer to the Corporation be suitable for electric traction

2. The Company will execute and completely finish the work of alteration and re-construction of the said tramways, as to those specified in the Schedule hereto by the 31st December, 1899, and will execute and completely finish the work of alteration and re-construction of the said tramways, other than those so specified in the said Schedule, with all reasonable and proper despatch

3. The Company will, within the period of three years from the date of this agreement, introduce and provide throughout the whole of the tramways of the Company a system of electric traction by means of overhead wires and of a description approved and accepted by the Corporation, in substitution for the existing system of horse-power traction, and will within the period aforesaid furnish and fully and efficiently equip the said tramways with all plant and machinery necessary for the purpose and render the said system of electric traction so to be substituted sufficient and complete in all details as a working system, and, having so introduced and provided the said system of electric traction and so furnished and fully and efficiently equipped the said tramways, will give notice in writing of the completion of the said system to the Corporation The said system of electric traction shall be completed to the satisfaction in all respects of the Engineer to the Corporation, and, on the Engineer to the Corporation satisfying himself that the said system of electric traction is complete, efficient and in good working order and safe for public service and that the tramways and tramcars are in proper condition he shall grant a certificate to that effect to the said Company, and from the date of the said certificate the said Company shall work the said system of electric traction

4. If the Company shall not within the said period of three years from the date of this agreement complete the said system of electric traction in all details to the satisfaction of the Engineer to the Corporation, the Company shall be liable to and shall for such failure pay to the Corporation a penalty or fine of Rs 200 for each day or part of a day until the said system of electric traction shall be completed in all details to the satisfaction of the said Engineer The said penalty or fine shall be paid by the Company on demand therefor being made by or on behalf of the Corporation, and in the event of non-payment thereof shall be recoverable in full from the Company If the Engineer to the Corporation shall decide that any work or thing to be done or provided under this agreement is not to his satisfaction, and the Company shall take objection to such decision as being unreasonable, the question shall be referred to and settled by arbitration in the manner provided by the said Concession or Contract of the 2nd October, 1879

(*The Schedule.*)

5. The Corporation shall have the right of purchasing the said tramways with the plant, machinery, land, buildings, rolling-stock, stores and everything connected therewith belonging to the Company, on the 1st January, 1931 upon declaring their intention so to purchase the same in writing not less than six calendar months before the said date, and the Corporation shall have a renewed right of purchase at the end of every seven years after the said 1st January, 1931, upon similar notice being given. The consideration for such purchase shall be a cash payment of twenty-five times the difference between the average gross annual receipts and the working expenses of the Company which said working expenses shall *inter alia* include track-rent and the proper up-keep and maintenance of the said tramways, plant, machinery, buildings and rolling stock, and any sum payable under clause 6. The average of the gross annual receipts and the working expenses for the purposes of such purchase shall be determined by taking the average of the seven years immediately preceding the date of such purchase. Upon the expiry of the said notice, the Company shall make over to the Corporation the entire tramways, plant, machinery, land, buildings, rolling-stock, stores and everything connected therewith. If the payment by the Corporation of the consideration for such purchase shall be delayed beyond the period of thirty days from the date of the expiration of the notice so to be given, the Corporation will pay to the Company interest on the amount of such consideration or such part thereof as shall be unpaid at the rate of 5 *per cent. per annum* from the date of the expiration of such notice, until payment, but in no event shall the said consideration be allowed to remain unpaid for more than six months from the date on which the same shall become due and payable. The provisions of this clause shall be in lieu of and not in addition to any power of purchase now vested in the Corporation under the said Concessions or Contracts of the 2nd October, 1879, and the 22nd November, 1879, or either of them, or the Calcutta Tramways Act, 1880,[1] or otherwise.

Ben. Act 3 of 1880

6. The Company will, prior to the date of the expiration of the notice to be given by the Corporation under and pursuant to the last preceding clause, well and sufficiently repair to the satisfaction of the Engineer to the Corporation such of the said tramways and of the said plant machinery, buildings, rolling-stock and other things or such portions thereof, respectively, as shall then be in need of repair, and will place or restore the same in or to a good and serviceable order and condition, and will so make over the same to the Corporation. If default shall be made by the Company in complying with the provisions of this clause, the Corporation shall for such default, and to the extent thereof, be entitled to a deduction

[1] Printed in Vol. II of this Code

(*The Schedule*)

from the consideration for the purchase of the said tramways, plant, machinery, land, buildings, rolling-stock, stores and premises of the Company as aforesaid, the fact whether such default has occurred and the amount of such deduction to be determined by arbitration in the manner provided in the said Concession or Contract of the 2nd October, 1879

7. Until such date as the Company shall have completed the said system of electric traction in all respects to the satisfaction of the Engineer to the Corporation, the Company will pay to the Corporation track-rent at the rate at which the same is now paid or may be payable by the Company under the said Concessions or Contracts of the 2nd October 1879, and the 22nd November, 1879, and the said agreement of the 2nd September, 1893 On and from the date on which the Company shall have completed the said system of electric traction in all respects to the satisfaction of the Engineer to the Corporation, and thereafter throughout the period which shall elapse until the tramways, plant, machinery, buildings, rolling-stock, stores and premises shall be purchased by the Corporation in exercise of the liberty accorded by clause 5, the Company will pay to the Corporation the fixed track-rent of Rs 35,000 *per annum* in respect of all the now-existing tramways without exception, provided that, if the working by the Company of any now existing tramway or any portion thereof shall with the previous sanction of the Corporation be hereafter discontinued, the Company shall be entitled to a proportionate reduction of the said fixed rent in respect of the tramway or portion thereof, the working whereof, shall be so discontinued

8. As from the date on which the Company shall have completed the said system of electric traction, and throughout the period which shall elapse between such date and the date of the purchase by the Corporation of the property of the Company in manner hereinbefore provided, the Company shall on all tramways the subject of this agreement provide and maintain such a full and proper daily service of tramcars running in both directions as shall in the opinion of the Chairman of the Corporation be sufficient for the requirements and convenience of the public

9. If the Company shall in any respect fail to maintain a fit and proper daily service of tramcars to the satisfiaction of the Chairman of the Corporation, or shall in any respect fail to maintain the tramways in good and efficient order or the tramcars in efficient condition to the satisfaction of the Engineer of the Corporation, the Chairman or the Engineer, as the case may be, shall give notice to the Company to make good any default by a date to be named in such notice, and should the Company take objection to such notice as being in any respect unreasonable, the matter in question shall be referred to arbitration in the manner provided in the said

(*The Schedule*)

Concession or Contract of the 2nd October, 1879, and the arbitrators or their umpire shall, by their or his award be empowered to direct the Company to do all works and things necessary to keep the
efficient order or to maintain a fi
of tramcars or to maintain the c
as the case may be, and the company shall forthwith comply with the direction in such award within such period as shall be named therein, and, from the date of the submission to such arbitration or the date that may be fixed by the Engineer, if his decision is accepted, the Company shall, until they shall have complied with such notice or direction, be liable to pay and on demand by the Corporation shall pay the full track-rent provided for in the said Concession or Contract of the 2nd October, 1879, and shall forfeit all right to or benefit of any modification of such rent during such period

10. And it is expressly agreed and declared that, subject to the sanction and authorization of this Agreement by an Act of the Bengal Legislative Council, the said Concessions or Contracts of the 2nd October, 1879, and the 22nd November, 1879, respectively, and the Calcutta Tramways Act, 1880[1], Act 3 (B C) of 1894 [2] and the Agreement of the 2nd September, 1893, shall be read and construed as extended and varied or modified by this agreement

Ben Act 1 of 1880

Schedule referred to in the foregoing Agreement

Bow Bazar Street	Wellington Street
Lall Bazar	Kidderpore line
Strand Road	Old Court House Street
Dhurrumtollah Street	Lower Chitpore Road
Cornwallis Street	Dalhousie Square, South
College Street	Hare Street Junctions
Wellesley Street	Chowringhee—all crossings

Nimtollah Ghat Street—whole

As witness the hands of the Chairman and two other Commissioners and the seal of the Corporation of Calcutta and the hand of John Richard Maples, the duly-constituted Attorney of the Calcutta Tramways Company, Limited, in the name and on behalf of the Company

Given under the common seal of the Corporation of Calcutta and duly signed in the presence of

W R MACDONALD,
Secretary.

W R BRIGHT, C S,
Chairman

SATISH CHANDRA GHOSH,
E. M D. COHEN,
Municipal Commissioners

[1] Printed in Vol II of this Code
[2] The Calcutta Tramways Act, 1894 It is printed *ante*, p 51

(*The Schedule.*)

With . . .

the name and on behalf of the Company

JOHN CAVE ORR,
Attorney-at-Law.

J. W. ORR,
Attorney-at-Law,
Calcutta

Seal of the Corporation of Calcutta

THE CALCUTTA TRAMWAYS Co., LD.
By their Attorney,
JNO. R. MAPLES

BENGAL ACT 2 OF 1902

[THE BENGAL DRAINAGE (AMENDMENT) ACT, 1902]

CONTENTS.

SECTION.

PART I

AMENDMENT OF THE BENGAL DRAINAGE ACT, 1880

PART II

PAST CLAIMS AND CHARGES IN RESPECT OF THE DRAINAGE SCHEMES OF HOWRAH AND RAJAPUR

BENGAL ACT 2 OF 1902

[THE BENGAL DRAINAGE (AMENDMENT) ACT, 1902][1].

(1st October, 1902.)

An Act to amend the Bengal Drainage Act, 1880.[2]

Whereas it is expedient to amend the Bengal Drainage Act, 1880[2] in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. This Act may be called the Bengal Drainage (Amendment) Act, 1902. — Short title

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PART I

Amendment of the Bengal Drainage Act, 1880[2]

2. In section 3 of the Bengal Drainage Act, 1880[2], after the definition of "Collector" the following shall be inserted, namely:— — Amendment of section 3, Bengal Act 6 of 1880

[Printed in Vol. II of this Code.]

3. For section 26 of the said Bengal Drainage Act, 1880[2], the following shall be substituted, namely:— — Amendment of section 26 and insertion of new section 26A

26, 26A. [Printed in Vol. II of this Code.]

4. In section 28, sub-section *(2)*, of the said Act[3] for the words and figures "the interest mentioned in section 26" the word "interest" shall be substituted. — Amendment of section 28

5. The following portions of the said Act[3] are hereby repealed, namely:— — Repeal of section 29 and portions of sections 30, 31, 38 and 42 to 44

section 29,

in section 30, the figures and word "26 or,"

in section 31, the words "upon such sums at five *per centum per annum*," and the words and figures "and any interest payable under section 29, and any interest payable under clause *(1)* of section 26, but

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[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons *see* Calcutta Gazette, 1902, Pt. IVA, p. 7; for Report of Select Committee, *see ibid*, Pt. IV, p. , and for proceedings in Council, *see ibid*, Pt. IVA, pp. 13, 49, 86, and 90.

LOCAL EXTENT.—Since this Act has no "local extent" clause it must be taken to extend, like the Act which it amends, to the whole of the former Province of Bengal but its application is barred in the Chittagong Hill tracts by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

[2] Printed in Vol. II of this Code.

[3] The Bengal Drainage Act, 1880. It is printed in Vol. II of this Code.

(*Part I—Amendment of the Bengal Drainage Act, 1880—Secs 6-13*)

not paid or recovered before the apportionment under section 28,'

in section 38, the words "thereupon at five *per centum per annum*"

in clause (*b*) of section 42 and in clause (*b*) of section 43, the words "at the rate of five *per centum per annum*", and

in sub-section (*3*) of section 44, the words "at five *per centum per annum*"

Insertion of new section 36A

6. After section 36 of the said Act[1] the following shall be inserted, namely —

36A [Printed in Vol II of this Code]

Amendment of section 37

7. (*1*) In section 37 of the said Act,[1]—

for the words "its service" the words "the service thereof" shall be substituted, and

for the words "at the rate of five *per centum per annum*" the words "up to the day of payment" shall be substituted

(*2*) The words "at the said rate," in the said section 37, are hereby repealed

Insertion of new Part IVA

8. After section 41 of the said Act the following shall be inserted, namely —

PART IVA [Printed in Vol II of this Code]

Insertion of new sections 44A and 44B

9. After section 44 of the said Bengal Drainage Act, 1880[2], the following shall be inserted namely — Ben Act 1880

44A, 44B [Printed in Vol II of this Code]

Amendment of section 45

10. In section 45 of the said Act[1] after the figures "43" the words and figures "or under section 44A" shall be inserted

Amendment of section 48

11. (*1*) At the end of sub section (*1*) of section 48 of the said Act[1] the following shall be added, namely —

[Printed in Vol II of this Code]

(*2*) In sub section (*3*) of section 48 of the said Act[1], for the word "five" the word "four" shall be substituted.

Insertion of new sections 51A to 51J

12. After section 51 of the said Act[1] the following shall be inserted, namely —

51A to 51J [Printed in Vol II of this Code]

Amendment of Schedule B

13. (*1*) In Schedule B to the said Bengal Drainage Act, 1880[2], for the word "five" the word "four" shall be substituted Ben Act 1880

(*2*) To the said Schedule the following shall be added, namely —

[Printed in Vol II of this Code]

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[1] The Bengal Drainage Act 1880 It is printed in Vol II of this Code
[2] Printed in Vol II of this Code

PART II

Past claims and charges in respect of the drainage schemes of Howrah and Rajapur

14. The Provisions of sections 41A, 44A, 51A, 51B [except clauses (*a*) and (*c*)] and 51C of the Bengal Drainage Act, 1880[1], as amended by this Act, as to the recovery of moneys upon application to the Collector, shall apply also to all claims which have already accrued in respect of the drainage schemes of Howrah and Rajapur and which, at the commencement of this Act, are unsatisfied and have not been barred by limitation: Recovery, under the certificate procedure, of certain subsisting claims in respect of the Howrah and Rajapur drainage schemes.

Provided that every application under any of the said sections in respect of any such claim be made within three months from the commencement of this Act.

15. (*1*) The Collector shall, as soon as conveniently may be, revise all orders heretofore passed under section 36 of the said Bengal Drainage Act 1880,[1] which declared the sums payable in respect of lands benefited by the drainage schemes of Howrah and Rajapur, so as— Reduction of past charges in respect of the Howrah and Rajapur drainage schemes.

(*a*) to reduce all charges for interest to the sums which would have been chargeable if the amendments made by this Act had been in force when such orders were passed, and

(*b*) to make such reductions (if any) in other charges as may be directed by the Local Government.

(*2*) When the reductions directed by or under sub-section (*1*) have been made in respect of any scheme, the Collector shall make an order stating—

(*i*) that all holders of land benefited by the scheme, and all tenants of such land, are entitled to proportionate relief,

(*ii*) how such relief is to be apportioned in respect of each class of such land,

(*iii*) such particulars as to the determination of the persons who are entitled to such relief and as to the determination of the sums to which such persons are respectively entitled as may be prescribed by rules made under section 19, and

(*iv*) any other particulars prescribed by such rules.

(*3*) Every order made under sub-section (*2*) shall be subject to the approval of the Commissioner.

(*4*) When any such order has been so approved, it shall be published in such manner as to the Collector may seem fit and

[1] Printed in Vol. II of the B. C. C.

shall, after such publication, be conclusive evidence in any Civil Court, and in any proceedings under this Act, of the matters stated therein

Refunding or crediting of reduction to landholder

16. (*1*) If, prior to the publication of any order made under section 15 in respect of any scheme, the whole sum payable by any landholder in respect of such scheme has been duly paid, then such landholder shall, upon such publication, be entitled to a refund of the sum to which he is entitled under such order

(*2*) If, when any order made under section 15 in respect of any scheme has been duly published, any sum payable by any landholder in respect of such scheme still remains to be paid, then the sum to which such landholder is entitled under such order shall be credited to him

Proportionate reduction in amounts recoverable by landholder from tenants

17. (*1*) When any sum has been refunded or credited to a landholder under section 16 of this Act, the amounts which were recoverable by him under section 42, clause (*b*), section 44, section 44A or section 51A of the said Bengal Drainage Act, 1880[1], from persons who have held or are now holding land immediately from him, shall be proportionately reduced Ben Act 6 1880

(*2*) Any such persons who have paid such amounts shall have a right, at their option,—

(*a*) to a refund of the sums to which they are entitled under sub-section (*1*), or

(*b*) to take credit for such sums in any adjustment of accounts between themselves and the landholder

Proportionate reduction in amounts recoverable by superior tenants from under tenants

18. (*1*) When any sum recoverable from a superior tenant is liable to reduction under section 17 of this Act, the amounts which were recoverable by him under section 43, clause (*b*), section 44, section 44A or section 51A of the said Bengal Drainage Act, 1880[1] from persons who have held or are now holding land directly from him, shall be proportionately reduced Ben Act 6 1880

(*2*) Any such persons who have paid such amounts shall have a right, at their option,—

(*a*) to a refund of the sums to which they are entitled under sub-section (*1*), or

(*b*) to take credit for such sums in any adjustment of accounts between themselves and the superior tenant

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[1] Printed in Vol II of this Code

of 1902.]

(Part II.—Past claims and charges in respect of the drainage schemes of Howrah and Rajapur.—Sec 19)

19. (*1*) The Local Government may, after previous publication, make rules for carrying out and giving effect to the provisions of sections 15 to 18 Power to make rules as to reductions

(*2*) In particular, and without prejudice to the generality of sub-section (*1*), the Local Government may—

(*a*) prescribe the particulars to be stated in orders made under section 15, and

(*b*) declare the conditions under which refunds and credits shall be made under sections 16, 17 and 18

(*3*) All rules made under this section shall be published in the Calcutta Gazette and in such other manner (if any) as the Local Government may direct

BENGAL ACT 1 OF 1903

[THE BENGAL TENANCY (VALIDATION AND AMENDMENT) ACT, 1903][1].

(25th February, 1903.)

An Act to validate certain transfers, made under the Bengal Tenancy Act, 1885[2], of permanent tenures and holdings at fixed rents or fixed rates and of shares in the same; and to amend section 106 of that Act.

Whereas doubts and difficulties have arisen respecting the meaning and effect of sections 12, 13, 17 and 18 of the Bengal Tenancy Act, 1885[2], as regards the payment of the prescribed landlord's fee and the effect of the non-payment of such fee;

And whereas it is expedient to declare that registered transfers and sales and decrees or orders for foreclosure of mortgage, confirmed and made absolute by the Civil Courts of permanent tenures and holdings at fixed rates and fixed rents, and of shares in such tenures and holdings, shall not be deemed to be invalid merely on the ground that the landlord's prescribed fee has not been paid;

And whereas it is also expedient to amend section 106 of the said Act in manner hereinafter appearing;

And whereas the said Act having been passed by the Governor General of India in Council, the sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892,[3] to the passing of this Act;

It is hereby enacted as follows:—

Validation of transfers [illegible]

1. No transfer which has heretofore been made or which may hereafter be made under section 12, section 13, section 17 or section 18 of the Bengal Tenancy Act, 1885[2] of a permanent tenure, or of a holding at a rent or rate of rent fixed in perpetuity or of a share in such tenure or holding, shall be deemed to be invalid merely on the ground that the landlord's fee prescribed by the said section 12 or 13 has not been paid:

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[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons *see* Calcutta Gazette, 1[illegible], Pt IV, p 21, for Report of Select Committee *see ibid* Pt IV p 3[illegible] for Proceedings in Council, *see ibid*, Pt IVA, pp 85, 89, and *ibid* 1903, Pt IVA, p 1

LOCAL EXTENT.—Since this Act amends the Bengal Tenancy Act 1885 (8 of 1885) its local extent must be taken to be the same as that of the latter Act printed in Vol I of this Code.

The present Act has been extended, by notifications under the Scheduled Districts Act, 1874 (14 of 1874), sections 5 and 5A, to the Jalpaiguri District, subject to certain restrictions [illegible] of the Western Duars—*see* Vol IV, Pt IV

The application of the Act is barred in the Chittagong Hill tracts by the Chittag[illegible] Regulation, 1900 (1 of 1900), s 4(2), in Vol I of this Code

[2] Printed in Vol I of this Code

[3] Printed in the Collection of Statutes relating to India 1913, Vol II, p. 603

Provided always that, subject to the *Explanation* following, nothing in this section shall be held to affect the decision of a Court of competent jurisdiction which has become final before the commencement[1] of this Act

Explanation —A decree in a suit for rent which has become final disallowing a claim for rent on the ground that the relationship of landlord and tenant does not exist between the parties to the suit by reason of the non payment of the landlord's fee shall not bar a suit for rent which became payable subsequently to such claim

Realization of fee when left unpaid

2. In any case where the prescribed fee has been or may hereafter be left unpaid, the landlord may, within two years of the commencement[1] of this Act,

or within two years of the date of registration of the document effecting the transfer,

or within two years of the date of confirmation of the sale by the Civil Court,

or within two years of the date upon which a decree or order absolute for the foreclosure of a mortgage has been or may hereafter be made by the Civil Court,

apply to the Collector for realization of such fee from the transferee or from the auction-purchaser or from the person who has obtained an order absolute foreclosure of mortgage in the Civil Court, and on such application being presented the Collector shall realize such fee if still unpaid together with costs of realization, from such person as if it were an arrear of revenue

Saving of section 88

3. Nothing in section 1 shall be deemed to affect the provisions of section 88 of the said Bengal Tenancy Act, 1885[2] 8 of

Substitution of a new section for section 106

4. For section 106 of the said Act[3], the following shall be substituted namely —

106 [Printed in Vol I of this Code]

Short title

5. This Act may be called the Bengal Tenancy (Validation and Amendment) Act, 1903

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[1] *i e*, the 25th February, 1903

[2] Printed in Vol I of this Code

[3] The Bengal Tenancy Act, 1885 It is printed in Vol I of this Code

BENGAL ACT 1 OF 1904

[THE BENGAL TRAMWAYS (AMENDMENT) ACT, 1904][1].

(2nd March, 1904.)

An Act to amend the Bengal Tramways Act, 1883 [1].

Whereas it is expedient to amend the Bengal Tramways Act, 1883 [2];

It is hereby enacted as follows —

1. This Act may be called the Bengal Tramways (Amendment) Act, 1904. Short title

2. After the word "shorter," in the proviso to section 41 of the Bengal Tramways Act, 1883 [2], the words "or longer" shall be inserted. Amendment of Ben Act 3 of 1883, s 41

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[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons see Calcutta Gazette, 1903, Pt IV, p 63, and for Proceedings in Council, see ibid, Pt IVA, pp 221 236 and ibid, 1904, Pt IVA, pp 2 and 16

LOCAL EXTENT —Since this Act merely amends the Bengal Tramways Act, 1883 (Ben Act 3 of 1883), it has the same local extent as that Act, printed in Vol II of this Code

The application of the Act is barred in the Chittagong Hill tracts by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), printed in Vol I of this Code

[2] Printed in Vol II of this Code

BENGAL ACT 2 OF 1904

(THE BENGAL PUBLIC PARKS ACT, 1904).[1]

(9th March, 1904)

An Act for the regulation of Public Parks in Bengal.

Whereas it is expedient to protect public parks and gardens in Bengal[2] from injury, and to secure the public from molestation and annoyance while resorting to such parks and gardens;

It is hereby enacted as follows.—

Short title and application

1. (*1*) This Act may be called the Bengal Public Parks Act, 1904.

(*2*) It applies to the public parks and gardens mentioned in the Schedule, and may be applied to any other public park or garden in Bengal[2] by order[3] of the Local Government published in the Calcutta Gazette

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "park" means any public park or garden to which this Act applies by virtue of section 1, sub-section (*2*), or any order published thereunder,

(*b*) "superintendent" means the person in executive charge of a park, and for the purposes of section 6, sub-section (*2*), includes also—

(*i*) an assistant superintendent of a park, and

(*ii*) any member of the Managing Committee (if any) of a park, and

(*c*) "park-*duruan*" means any person appointed by the superintendent, or by the authority to whom the superintendent is subordinate, to act as a *duruan* of the park

Power to extend boundaries of park

3. The Local Government may, by notification[4] in the Calcutta Gazette declare that any specified land, bridge or pontoon shall, for the purposes of this Act, be deemed to be included in any park.

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[3] For references to orders made under section 1 (2) for Bengal as constituted on the 31st March, 1912 see the Bengal Local Statutory Rules and Orders, 1912, Vol I, Pt VI

[4] For a reference to a notification issued under section 3 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol I, Pt VI

(*Secs 4, 5*)

Power to make rules

4. (*1*) The Local Government may make rules[1] for the management and preservation of any park, and for regulating the use thereof by the public.

(*2*) In particular, and without prejudice to the generality of the foregoing power such rules may—

(*a*) regulate the admission of persons, horses and ponies, and carriages, *palanquins* and other conveyances, into the park, and prescribe fees to be paid therefor,

(*b*) prohibit or regulate the bringing of dogs, motor-cars, bicycles or tricycles into the park,

(*c*) prohibit the doing of all or any of the following things by persons other than employes of the park, that is to say, plucking or gathering anything growing in the park, breaking trees, branches or plants, cutting names or marks on trees, disfiguring buildings, furniture or monuments, removing or disfiguring labels or marks attached to trees or plants,

(*d*) prohibit the purchase of any produce of the park otherwise than from the superintendent or some other authorized person;

(*e*) prohibit shooting, bird-nesting, the catching of butterflies, or any act of cruelty,

(*f*) prohibit or regulate fishing or boating and prescribe fees to be paid by persons obtaining permission to fish or to use boats,

(*g*) prohibit bathing, or the pollution of water by any other means,

(*h*) prohibit the grazing of horses or ponies,

(*j*) prohibit the teasing or annoying of animals or birds kept in the park,

(*k*) prohibit the commission of any nuisance, or the molestation or annoyance of any person resorting to the park

(*3*) In making any rule under this section, the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees

(*4*) The power to make rules under this section is subject to the condition that they shall be made after previous publication[2]

(*5*) All rules made under this section shall be published in the Calcutta Gazette

Exhibition of copies of notifications and rules in park

5. One or more copies, in English and in one or more vernacular languages, of every notification published under section 3, and of all rules made under section 4 for observance by persons resorting to a park, and for the time being in

[1] For a list of rules made under section 4 for Bengal as constituted on the 31st March, 1912 *see* the Bengal Local Statutory Rules and Orders, 1912 Vol I, Pt VI, and for subsequent amendments to certain of these rules, *see* Calcutta Gazette 1914 Pt I p 866

[2] As to previous publication, *see* the Bengal General Clauses Act, 1899 (Ben Act 1 of 1899), s 24, *ante*, p 182

(*Secs. 6-9*)

force, shall be put up in the park in such conspicuous manner as the superintendent may deem best calculated to give information to such persons

Refusal of offender to give name and residence

6. (*1*) If any person who, in the presence of a park-*durwan* in uniform, has committed or has been accused of committing a breach of any rule made under section 4, and who is unknown to such *durwan*, refuses, on demand of such *durwan*, to give his name and residence, or gives a name or residence which such *durwan* has reason to believe to be false, such person may be detained by such *durwan* in order that his name or residence may be ascertained.

(*2*) When any person is detained under sub-section (*1*) he shall forthwith be taken to the superintendent, or, if the superintendent be not present in the park or its immediate precincts, such person shall be taken to the nearest police-station, or if he so requests, to the nearest Magistrate having jurisdiction to try him

(*3*) If the true name and residence of any person so taken to the superintendent be not ascertained within a reasonable time, the superintendent shall forthwith send for an officer of police, and shall detain the offender until the arrival of such an officer, and shall then deliver him into the custody of such officer, to be taken to the nearest police station

(*4*) If the true name and residence of any person taken to a police-station under this section be not ascertained within a reasonable time, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction to try him

(*5*) When the true name and residence of any person detained under this section have been ascertained, he shall be allowed to depart

(*6*) No person shall be detained under this section for a longer period than twelve hours

Superintendent and park *durwan* deemed public servants

7. Every superintendent and park-*durwan* shall for the purposes of the Indian Penal Code[1] be deemed to be a public servant

General powers, duties, etc, of park-*durwan*

8. Every park-*durwan* shall in addition to any powers and immunities specially conferred on him by this Act or by rules made hereunder, have, within the limits of the park to which he is appointed, all such powers, privileges and immunities, and shall, within the said limits, be liable to all such duties and responsibilities, as a police-constable has and is liable to within the limits of the police-station in which such park is comprised ·

Provided that every park-*durwan* shall be subordinate to the superintendent

General Powers, etc, of police-constables

9. Every police-constable employed within the limits of a police-station shall have, within any park comprised in such

[1] Printed in the General Acts, 1834-67, Ed 1909, p 248

(The Schedule.)

limits, the powers, privileges and immunities conferred on a park-*durwan* by this Act and any rules made hereunder.

THE SCHEDULE.

PUBLIC PARKS AND GARDENS TO WHICH THIS ACT APPLIES IN THE FIRST INSTANCE.

(See section 1, sub-section (2).)

The Royal Botanic Garden, Sibpur.
The Zoological Garden, Alipur.
The Eden Gardens, Calcutta.
The Lloyd Botanical Garden, Darjeeling.
The Victoria Pleasance, Darjeeling.

BENGAL ACT 3 OF 1904

(THE BENGAL SETTLED ESTATES ACT, 1904)

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MISCELLANEOUS

BENGAL ACT 3 OF 1904

(The Bengal Settled Estates Act, 1904[1])

(9th March, 1904.)

An Act to facilitate family settlement of estates in Bengal[2].

Whereas it is expedient to facilitate the making of family settlements of estates by landholders in Bengal[2].

And whereas, the Bengal Land-revenue Sales Act, 1859,[3] the Indian Succession Act, 1865[4] the Court-fees Act, 1870,[5] the Indian Limitation Act, 1877,[6] the Probate and Administration Act, 1881,[7] the Transfer of Property Act, 1882,[8] the Succession Certificate Act, 1889,[9] and the Indian Stamp Act, 1899,[10] having been passed by the Governor General of India in Council, the previous sanction of the Governor General has been obtained, under section 5[11] of the Indian Councils Act, 1892, to the passing of this Act;

It is hereby enacted as follows —

PART I.

Preliminary

1. (*1*) This Act may be called The Bengal Settled Estates Act, 1904, and — Short title and extent

(*2*) It extends to the whole of Bengal[2]

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,— Definitions

(*a*) "estate" includes—

(*i*) immovable property,

(*ii*) money, and securities for money, and

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s. 1 (2),
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(*Part I.—Preliminary.—Sec 2*)

(iii) any jewellery or other movable property which should, in the opinion of the Local Government, be treated as heirlooms,

(*b*) "settled estate" means an estate in respect of which a settlement made under this Act is for the time being in force,

(*c*) "settlor" means the person who makes a settlement under this Act;

(*d*) "first tenant for life" means the settlor,

(*e*) "second tenant for life" means the person appointed by a settlement made under this Act to take a settled estate on the death of the first tenant for life, or who on the surrender by the first tenant for life, takes his interest under the settlement,

(*f*) "third tenant for life" means the person appointed by a settlement made under this Act to take a settled estate on the death of the second tenant for life, or who, on the surrender by the second tenant for life, takes his interest under the settlement,

(*g*) tenant for life' means a first, second or third tenant for life,

(*h*) 'son" includes a son born after the execution of a settlement, and in the case of anyone whose personal law permits adoption, includes also a son—

(i) duly adopted, either before or after the execution of a settlement, by the adoptive father himself, or

(ii) duly adopted to her deceased husband within five years after his death, by a widow, acting under authority, in writing and registered, lawfully conferred on her by him in that behalf,

(*i*) secured debt' means a debt, demand or claim which is secured by way of a mortgage, charge or lien on specified property and is primarily enforceable against such property,

(*k*) 'unsecured debt" means a debt demand or claim (other than a secured debt) for any sum exceeding five hundred rupees, which is enforceable against the person or general property of the debtor,

(*l*) 'secured creditor" means a person who is entitled to enforce payment of a secured debt,

(*m*) "unsecured creditor" means a person who is entitled to enforce payment of an unsecured debt,

(*n*) "incumbrance" means a secured debt, or an unsecured debt, or both,

Signature, verification and contents of application

4. (*1*) Every such application must be in writing, and must be signed by the applicant and verified by him in the manner prescribed in section 52[1] of the Code of Civil Procedure for the 14o
verification of plaints

(*2*) Every such application must contain the following particulars, namely—

(*a*) a description of the estate, sufficient for its identification,

(*b*) a statement of the income yielded annually by the property comprised in the estate, and the revenue, rates and taxes due to the Government or any Local Authority annually in respect of such property, and

(*c*) a list giving a full and complete enumeration and description of all incumbrances held by secured and unsecured creditors, respectively, and enforceable against the applicant or the estate, with the name and address of each such creditor, and a correct statement of the amount due to each such creditor

Declarations and draft to accompany application in the case of an estate belonging to a joint Hindu family or to co-sharers

5. (*1*) If any estate in respect of which an application is made under section 3 belongs to—

(*a*) a joint Hindu family, or

(*b*) co-sharers,

the application must be accompanied by—

(*i*) a sworn declaration by the applicant,—

in case (*a*), that he is the *karta* or managing member of the family, or

in case (*b*), that he is a principal shareholder in the estate and has, by custom or with the consent of his co-sharers, as the case may be, the sole right of management over the estate, and

(*ii*) a sworn declaration, in case (*a*), by the other co-owners, or in case (*b*) by the other co-sharers, that they are willing to assent to the estate being settled under this Act, and

(*iii*) a draft of the proposed instrument of settlement

(*2*) If any of the said other co-owners or co-sharers is, at the time when the application is made, a minor, a declaration under clause (*ii*) of sub-section (*1*) may be accepted if it is made on behalf of such minor by the guardian of his property or (when a guardian of his property cannot lawfully

[1] Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908) and this reference should now be taken to be made to rule 15 (2) and (3) in Order VI in Schedule I to that Code—see s 158 thereof, in the General Acts 1904-09, Ed 1909, p. 181

of 1904.]

(Part II.—Application for Permission to make a First Settlement of an Estate.—Secs. 6, 7.)

be appointed) the guardian of his person, appointed or declared under the Guardians and Wards Act, 1890[1], or any other law for the time being in force, and

approved by an order in writing under the seal of the Court which appointed or declared the guardian.

(3) If any of the aforesaid other co-owners or co-sharers is, at the time when the application is made, a lunatic, a declaration may be accepted under clause (*ii*) of sub section (*1*) if it is

made on behalf of such lunatic by his committee appointed under the Lunacy (Supreme Courts) Act, 1858[2], or the Lunacy (District Courts) Act, 1858[2], or any other law for the time being in force, and

approved by an order in writing under the seal of the Court which appointed the committee

6. The Local Government may in its discretion, and after such inquiry (if any) as it may think fit to make, by written order reject any application made under section 3. Power to reject application

7. If any application made under section 3 is not rejected under section 6, and if the Local Government is satisfied that the conditions specified in section 3 are fulfilled, and that the provisions of sections 4 and 5 have been duly complied with, Transmission and notification of application

the Local Government shall send a copy of the application, and of the declarations which accompanied it, as also a copy of the draft of the proposed instrument of settlement, to each creditor who is named in the application, and to each person who has made a declaration in pursuance of clause (*ii*), of section 5,

and, with the previous sanction of the Governor General in Council, shall publish a notification—

(*a*) setting forth the application [except the particulars inserted therein in pursuance of clause (*b*) of section 4] and the declarations which accompanied it,

(*b*) [illegible]

application relates, and all other persons interested or claiming to be interested in the estate, to send to the Local Government a written notice of their incumbrances and interests, respectively, within a period of six months from the date of the notification, and

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[1] ... 1909 p 205
[2] ... [illegible] re-enacted by the Indian Lunacy Act 1912 (IV of 1912) ... and these references should now ... —see the General Clauses Act, 1897 (10 of 1897) s. 8 ...

(c) intimating that any objections to the proposed settlement, whether urged by creditors or by other persons interested in the estate, which may be communicated to the Local Government in writing within the said period, will be duly considered.

Rejection or approval of application after notification.

8. (*1*) At any time after the expiration of the said period, and after considering any notices and objections received under section 7 and after such inquiry (if any) as it may think fit to make, the Local Government may, in its discretion, by written order either—

(*a*) reject such application, or

(*b*) grant[1] permission to make the proposed settlement, in respect either of the whole of the property to which the application relates or of any part thereof:

Provided that, if any incumbrances have been set forth in the application or brought to the notice of the Local Government, such permission shall not be granted unless—

(*i*) the incumbrances are first discharged, or

(*ii*) a condition is made for the insertion in the settlement of provisions, to be assented to by the creditors and approved by the Local Government, for the discharge of the incumbrances, or for their continuance, with or without modification, and for the payment of interest thereon.

(*2*) If the right of the applicant to make the settlement is disputed by or on behalf of any person interested or claiming to be interested in the estate, the Local Government may, if it thinks fit, refer the matter in dispute to the Civil Court for decision, before determining whether to reject the application or to grant permission to make the proposed settlement; and the Civil Court shall, in dealing with any such reference follow the procedure prescribed in the Code of Civil Procedure[2] for the trial of suits, so far as the same may be applicable. 14 of 1

(*3*) Every decision by the Civil Court under sub-section (*2*) shall be deemed to be a decree within the meaning of the Code of Civil Procedure[2], and an appeal therefrom shall lie to the High Court. 14 of 1

Rejection no bar to making fresh application.

9. The rejection under section 6 or section 8 of an application for permission to make a settlement of an estate under the foregoing provisions of this Act shall be no bar to the making of a fresh application in respect of the same estate, if the applicant shows sufficient reason for so doing.

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[1] For a reference to an order made under section 8 (*b*) *see the Bengal Local Statutory Rules and Orders, 1915, Vol. I, p. 55.*

[2] Act XIV of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to that Code—*see s. 158 thereof in the General Acts, 1904-08, Ed. 1909, p. 184.*

PART III

PROVISIONS TO BE CONTAINED IN FIRST SETTLEMENTS

10. (*1*) Every settlement made under the foregoing provisions of this Act in respect of any estate shall provide that the estate shall be held for life— Settlement of estates for three generations

(*a*) by the settlor, as first tenant for life

(*b*) and thereafter, by the second tenant for life, who shall be the eldest or only son of the first tenant for life,

(*c*) and thereafter, by the third tenant for life, who shall be the eldest or only son of the second tenant for life

(*2*) Every such settlement shall further provide,—

(*i*) if the estate is one to which the settlor was, immediately before the execution of the settlement, solely entitled—that, after the life of the third tenant for life, the eldest or only son of such tenant shall hold the estate absolutely,

(*ii*) if the estate belonged, immediately before the execution of the settlement, to a joint Hindu family—that, after the life of the third tenant for life, the eldest or only son of such tenant shall during his life be the *karta* or manager of the estate, but without prejudice to the rights of any persons who, but for the settlement, would be co owners of the estate, and

(*iii*) if the estate belonged, immediately before the execution of the settlement, to co-sharers—that, after the life of the third tenant for life, the eldest or only son of such tenant shall have during his life the sole right of management over the estate,

but subject in each case to the terms of any fresh settlement made by a tenant for life in pursuance of permission granted under section 16.

(*3*) If the eldest or only son of the settlor has predeceased the settlor, or if the settlor desires to exclude such son from holding the estate on the ground of incapacity or defect of character which is proved by the settlor to the satisfaction of the Local Government, then, notwithstanding anything contained in the foregoing sub-sections, the Local Government may permit him to provide in the settlement—

(i) that the second tenant for life shall be another son of the settlor, if he has another son, or the eldest or only

son of the son who has predeceased the settlor or has been excluded as aforesaid, and

(ii) that the third tenant for life shall be the eldest or only son of the second tenant for life, or the eldest or only son of the son who has predeceased the settlor or has been excluded as aforesaid.

(*3*) Any settlement made under the foregoing provisions of this Act may provide that any tenant for life may, with the previous sanction of the Local Government, by written instrument surrender his interest under the settlement in favour of the next tenant for life

Further remainders

11. Every settlement made under the foregoing provisions of this Act may also contain provisions for vesting the estate, in the event of the settlement on the second tenant for life or the third tenant for life or his son failing to take effect, in some other person descended from the settlor or the settlor's father in the direct male line.

Further provisions in settlements

12. (*1*) Every settlement made under the foregoing provisions of this Act shall specify all incumbrances referred to in clause (*ii*) of section 8

(*2*) Every such settlement shall also contain such provisions as may be approved by the Local Government with regard to the following matters, namely —

(*a*) the discharge of incumbrances on the estate, and the payment of interest thereon; or their continuance (with or without modification), and the payment of interest thereon,

(*b*) the maintenance of the co-owners and co-sharers (if any) by or on whose behalf a declaration has been made under clause (*ii*) of section 5, and of all persons who at the time of the execution of the settlement are, or thereafter may be, legally entitled to maintenance out of the estate;

(*c*) the management of the estate after the death of the settlor—

(*i*) during a period not exceeding five years after such death, pending the adoption of a son under the circumstances described in sub-clause (ii) of clause (*h*) of section 2, or

(*ii*) during the minority of the second tenant for life,

(*d*) the management of the estate after the death of the second tenant for life—

(*i*) during a period not exceeding five years after such death, pending the adoption of a son

under the circumstances described in sub-clause (ii) of clause (*h*) of section 2, or

(*ii*) during the minority of the third tenant for life ;

(*c*) the management of the estate after the death of the third tenant for life—

(*i*) during a period not exceeding five years after such death, pending the adoption of a son under the circumstances described in sub-clause (ii) of clause (*h*) of section 2, or

(*ii*) during the minority of the next holder.

(*3*) If any settlement made under the foregoing provisions of this Act includes money, securities for money, or movable property, the settlement shall contain such provisions as may be approved by the Local Government for vesting such money, securities or property in a trustee, for the investment or conversion of such money or securities in or into securities authorized by section 20[1] of the Indian Trusts Act, 1882, and the payment to the trustee of expenses and remuneration in accordance with rules made under section 37, clause (*c*).

Explanation.—The Official Trustee of Bengal,[2] the Collector or any private person may be appointed to be a trustee for the purposes of this sub-section.

(*4*) In addition to the various matters hereinbefore specified the Local Government may require or permit the insertion in any settlement made under the foreging provisions of this Act, of any provisions which it may think fit, and may make its approval of the settlement conditional on the insertion of provisions which it has required to be inserted.

Provided that no provisions inserted in pursuance of this sub-section shall operate to the prejudice of any secured or unsecured creditor unless assented to by him.

PART IV.

SUPPLEMENTARY SETTLEMENTS AND FRESH SETTLEMENTS.

13. (*1*) At any time after a settlement has been made under the foregoing provisions of this Act, a tenant for life

Supplementary settlement in respect of property

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[1] Printed in the General Acts, 1879-86, Ed. 1903, p. 180.

[2] As to the Official Trustee see the Official Trustees Act, 1913 (2 of 1913), in the General Acts, Vol. VII (1909-1913), p. 2?0.

may apply to the Local Government for permission to make a supplementary settlement for the purpose of adding further property to the settled estate—

(*a*) if he is competent to contract,

(*b*) if he is in possession of such property, either in his own right or along with or on behalf of others, and

(*c*) if such property is held in permanent, heritable and transferable right.

(*2*) Provided that no application may be made under sub-section (*1*) in respect of any property—

(*i*) unless the applicant is solely entitled to the property; or

(*ii*) if the property belongs to a joint Hindu family—unless the applicant is the *karta* or managing member of the family; or

(*iii*) if the property belongs to co-sharers—unless the applicant is a principal shareholder in the property and has, by custom or with the consent of his co-sharers, the sole right of management over the property.

(*3*) The provisions of sections 4 to 9 shall apply to every application made under sub-section (*1*) in respect of any property, and the provisions of sections 10 to 12 shall apply to every settlement of such property, as if the property were an "estate" within the meaning of those sections.

Power to apply for permission to make a supplementary settlement in respect of persons.

14. If, at any time after any settlement has been made under the foregoing provisions of this Act, the second tenant for life dies during the life of the settlor, or the settlor desires to exclude him from holding the estate on the ground of incapacity or defect of character which is proved by the settlor to the satisfaction of the Local Government,

the settlor may, if he is competent to contract, apply to the Local Government for permission to make a supplementary settlement for the purpose of appointing to be second tenant for life and third tenant for life respectively, any other persons who might have been so appointed in pursuance of clauses (*i*) and (*ii*) of sub-section (*3*) of section 10.

Power to apply for permission to make a fresh settlement.

15. At any time after any settlement has been made under the foregoing provisions of this Act, a tenant for life of a settled estate may, if he is competent to contract, apply to the Local Government for permission to make a fresh settlement of the estate.

Procedure in dealing with applications under section 14 or 15.

16. (*1*) The provisions of section 4, sub-section (*1*), and section 9 shall apply to every application for permission to make a supplementary settlement in respect of persons or a fresh settlement.

(Part IV.—Supplementary Settlements and Fresh Settlements.—Sec. 16.)

(2) If any such application relates to an estate to which the settlor was, immediately before the execution of the former settlements, respectively, solely entitled, the Local Government may, in its discretion, and after such inquiry (if any) as it may think fit to make, by written order, either—

(i) reject the application, or

(ii) grant permission to make the proposed settlement.

(3) If any such application relates to an estate which belonged, immediately before the execution of the former settlements, respectively, to a joint Hindu family or to co-sharers the application must be accompanied by a declaration by all persons (other than the applicant) who but for such settlements, would be co-owners or co-sharers in the estate, to the effect that they are willing to assent to the proposed settlement.

(4) If any of such co-owners or co-sharers is, at the time when the application is made, a minor or a lunatic, a declaration under sub-section (3) of this section may be accepted if it is made and approved as indicated in sub-section (2) or sub-section (3), as the case may be, of section 5.

(5) In every case referred to in sub-section (3) of this section, the Local Government

shall send a copy of the application, and of the declarations which accompanied it, to each person who has made a declaration in pursuance of that sub-section,

and, with the previous sanction of the Governor General in Council, shall publish a notification—

(a) setting forth the application and the declarations which accompanied it,

(b) calling upon all persons (other than creditors) interested or claiming to be interested in the estate, to send to the Local Government written notice of their intersets within a period of six months from the date of the notification, and

(c) intimating that any objections by such persons to the purposed settlement, which may be communicated to the Local Government in writing within the said period, will be duly considered

and, at any time after the expiration of the said period and after considering any notices and objections received under this sub-section, and after such inquiry (if any) as it may think fit to make, may, in its discretion, by written order, either—

(i) reject the said application, or

(ii) grant permission to make the proposed settlement.

(*Part IV—Supplementary Settlements and Fresh Settlements.—Part V—Settlements generally.—Secs. 17, 18*)

Provisions as to fresh settlements

17. (*1*) The provisions of sections 10, 11 and 12 shall apply to every fresh settlement made in pursuance of permission granted under section 16.

(*2*) All property which, immediately before the execution of a fresh settlement in respect of any estate, is included in any former settlement of the estate made under this Act, must be included in such fresh settlement.

(*3*) No property shall be included in any fresh settlement made under this Act in respect of any estate unless it is, immediately before the execution of such settlement, included in a former settlement of the estate made under this Act.

(*4*) If any incumbrance, which is dealt with in any former settlement made under this Act in respect of any estate, is still in existence at the time of the execution of the fresh settlement of the estate, then nothing contained in such fresh settlement shall affect the rights of the creditor unless assented to by him.

(*5*) Every fresh settlement made under this Act in respect of any estate shall, subject to the foregoing provisions of this section, supersede all former settlements made under this Act in respect of such estate.

PART V

SETTLEMENTS GENERALLY

Approval, stamping and registration of settlements.

18. (*1*) No settlement made under this Act shall take effect unless the instrument of settlement—

(*a*) is of a non-testamentary character,

(*b*) is attested by two or more witnesses,

(*c*) has been approved by the Local Government before execution, and the fact of such approval having been given is certified on the instrument by one of the Secretaries to the Local Government,

(*d*) bears a stamp of the full value prescribed by sub-section (*2*), or, if the sanction of the Board of Revenue[1] has been given under sub-section (*3*), of one-third of such value, and

(*e*) is registered within three months after the said approval has been certified as aforesaid.

(*2*) Every instrument of settlement made under this Act, not being a supplementary settlement referred to in section 11 or a fresh settlement referred to in section 15, shall, notwithstanding anything contained in the Indian Stamp Act, 1899[2] 2 of 1

[1] As to the present constitution and powers of the Board of Revenue, see the Bengal Board of Revenue Act, 1913 (Ben. Act 2 of 1913), *post*, p. 7 9.

[2] Printed in the General Acts 1898-03 Ed. 1909 p. 3,3

of 1904.]

(Part V.—Settlements generally.—Secs. 19, 20.)

bear a stamp of a value equivalent to one-fourth of the annual net profits of the estate comprised in the settlement

(3) Provided that a stamp of one-third of such value may be affixed, with the previous sanction of the Board of Revenue[1] on arrangements being made to its satisfaction for the affixing of stamps for the rest of such value at subsequent dates within three years from the date of the instrument

(4) If any question arises, with reference to sub-section (2) or sub-section (3), as to the amount of the annual net profits of any estate, the decision of the Board of Revenue[1] thereon shall be final.

(5) Every instrument making a supplementary settlement referred to in section 14 or a fresh settlement referred to in section 15 shall, notwithstanding anything contained in the Indian Stamp Act, 1899[1], bear a stamp of ten rupees

(6) Subject to the foregoing provisions of this section, every instrument of settlement shall take effect from the date of its execution.

Approval, stamping and registration of instruments of surrender

19. (1) No instrument of surrender referred to in sub-section (4) of section 10 shall take effect unless it—

(a) is of a non-testamentary character,

(b) is attested by two or more witnesses;

(c) has been approved by the Local Government before execution, and the fact of such approval having been given is certified on the instrument by one of the Secretaries to the Local Government,

(d) is stamped in accordance with the provisions of the Indian Stamp Act, 1899[2], and

(e) is registered within three months after the said approval has been certified as aforesaid

(2) Subject to the foregoing provisions of this section, every such instrument shall take effect from the date of its execution

Bar to application of succession laws, in respect of property comprised in settlement

20. (1) Notwithstanding anything contained in the Indian Succession Act, 1865[3], the Probate and Administration Act, 1881[4], or the Succession Certificate Act 1889[5], it shall not be necessary for any person to obtain probate or letters of administration, or a certificate under the last-mentioned Act, to admit of his taking any property or recovering any debt or realizing any security in virtue of a settlement made under this Act.

(2) If any probate, any letters of administration or any certificate granted under the Succession Certificate Act, 1889[5], purports to cover any property, debt or security which is

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[1] [illegible] the Board of Revenue see the Bengal Board of [illegible]

[2] [illegible] p 373

[3] [illegible] p 473

[4] [illegible] p 80

[5] [illegible] p 137

comprised in a settlement made under this Act, then, notwithstanding anything contained in Article 11 or Article 12 of Schedule I to the Court-fees Act, 1870[1], no court-fee shall be levied under either of those Articles in respect of such property debt or security 7 o

Power of Local Government to grant certificate after death of tenant for life

21. At any time after the death of any tenant for life of a settled estate, any of the Secretaries to the Local Government may, upon the application of any person claiming a right to hold the settled estate under the instrument of settlement, grant a certificate to such person declaring him to be entitled to hold such estate under such instrument, and such certificate shall be presumed to be correct unless and until the contrary is proved

Notification of instruments of settlement and instruments of surrender or revocation of settlement

22. (1) When any instrument of settlement or surrender of settlement or revocation of settlement is registered, the registering-officer shall report the fact to the Local Government, and on receipt of such report, the Local Government shall publish a notification[2] stating the purport of the instrument and the office in which it has been registered

(2) The Collector shall cause a copy of every such notification to be posted in his office, and to be published on the settled estate at such places and in such manner as may in his opinion be sufficient for giving information to tenants and other persons interested

Abrogation of inconsistent laws

23. No settlement or part of a settlement made under this Act shall be liable to be avoided or set aside by any Civil Court by reason only that it contravenes—

(a) any provision of the Transfer of Property Act, 1882[3], or 4 of 1

(b) any law or rule for the time being in force for the prevention of perpetuities, or

(c) any family custom or any personal law or law of succession to which the family is subject,

which is inconsistent with the provisions of this Act

PART VI

REVOCATION CANCELLATION AND AMENDMENT OF SETTLEMENTS.

Revocation of settlement by tenant for life

24. (1) A tenant for life of a settled estate may, at any time, if he is competent to contract, apply to the Local Government for permission to revoke, either wholly or as respects

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[1] Printed in the General Acts, 1868-78, Ed 1909, p 102

[2] For a reference to a notification issued under section 22 (1), see the Bengal Local Statutory Rules and Orders 1912 Vol I Pt VI

[3] Printed in the General Acts 1879-86, Ed 1903, p 204

(*Part VI—Revocation, Cancellation and Amendment of Settlements—Secs 25, 26*)

any particular property, any settlement made under this Act

(2) The Local Government, after considering the application, and the result of any inquiry made by it or under its orders, and any further particulars or information called for by it, may, in its discretion, by written order, either—

(a) reject the application, or

(b) grant the permission applied for, or

(c) grant permission to revoke the settlement as respects such property only as may be specified in the order.

(3) When permission is granted under sub-section (2) to revoke a settlement, either wholly or as respects any particular property, the revocation shall not take effect unless the instrument of revocation—

(i) is of a non-testamentary character,

(ii) is attested by two or more witnesses,

(iii) has been approved by the Local Government before execution, and the fact of such approval having been given is certified on the instrument by one of the Secretaries to the Local Government,

(iv) is stamped in accordance with the provisions of the Indian Stamp Act, 1899[1], and

(v) is registered within three months after the said approval has been certified as aforesaid

(4) Subject to the foregoing provision of this section, every such instrument shall take effect from the date of its execution

25. (1) Notwithstanding anything hereinbefore contained, the Local Government may at any time declare by notification that any settlement made under this Act in respect of a settled estate shall be deemed— Cancellation or amendment of settlement by Local Government

(a) to be cancelled, or

(b) to be amended so as to exclude any part of the estate described in the notification

(2) On the publication of such notification the said settlement shall be deemed to be cancelled or amended as aforesaid, as the case may be

26. When any instrument of settlement is revoked under section 24, or cancelled or amended under section 25, the rights of all persons having incumbrances on the estate shall, notwithstanding anything contained in the Indian Limitation Act, Revival of incumbrances on revocation, cancellation or amendment of settlement

[1] Printed in the General Acts, 1898-03, Ed 1907 p 373.

1877[1], revive and be enforceable as if the settlement had not been made, but subject to any payments which were made while the settlement was in force. 15 of

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PART VII

RIGHTS AND POWERS OF TENANT FOR LIFE, AND PROTECTION OF SETTLED ESTATE DURING HIS LIFE.

Right of tenant for life to profits of settled estate

27. All profits of a settled estate, which are realized by a tenant for life, or which immediately before his death, were due to him but were not realized by him, shall, subject to the other provisions of this Act, belong absolutely to such tenant or his heirs executors administrators or assigns

Provided that if any rents due to a tenant for life in respect of a settled estate were in arrear immediately before his death, the same shall upon his death, notwithstanding anything contained in this Act, or in the Indian Succession Act, 1865[2], or in any other law or in any settlement made under this Act, and notwithstanding any will or other disposition made by such tenant, become due to the next holder of the estate 10 of 1

Restriction on alienation by tenant for life

28. Except as provided in sections 29 and 30, a tenant for life of a settled estate shall not be entitled to transfer by way of sale or gift, or otherwise alienate, or to create any incumbrance upon or to lease the estate, or any part thereof, or to assign his right to receive any of the profits thereof

Sales by tenant for life

29. *(1)* A tenant for life of a settled estate may, with the previous written sanction of the Civil Court, sell the estate or any part thereof

(2) If the estate belonged, immediately before the execution of the settlement, to a joint Hindu family or to co-sharers the Court shall, before determining to accord such sanction notify the proposed sale to all persons (except the tenant for life) who but for the settlement, would be co-owners or co-sharers in the estate; and shall hear and duly consider any objection which may be advanced by them or on their behalf

(3) The proceeds of every such sale shall be paid by the purchaser to the Collector, and shall be held by the Collector in trust to re-invest the same, with the approval of the Local

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[1] Act 15 of 1877 has been repealed and re-enacted by the Indian Limitation Act 1908 (9 of 1908) printed in the General Acts [illegible] Ed 1909 p [illegible] and this reference should now be construed as a reference to the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in the General Acts, 1887-97 Ed 1909 p 579

[2] Printed in the General Acts 1861-67, Ed 1909 p 473

of 1904.]

(Part VII.—Rights and Powers of Tenant for Life, and Protection of Settled Estate during his Life.—Secs. 30-32.)

Government, in immoveable property, which shall, upon such re-investment, be and remain subject to the settlement in like manner as if it had been originally comprised therein.

Leases by tenant for life.

30. (*1*) A tenant for life of a settled estate may lease the estate or any part thereof from year to year or for any term not exceeding seven years, or (with the previous written consent of the Collector) for any longer term not exceeding fourteen years, or (with the previous sanction of the Local Government) for any longer term of years or in perpetuity.

(*2*) No premium or fine shall be taken on any such lease granted for a term exceeding seven years, or in perpetuity, except with the previous written consent of the Collector.

(*3*) When any premium or fine is taken on any lease granted under sub-section (*1*), then—

(*a*) if the lease is from year to year or for a term of years, a sum equivalent to four-fifths of the amount of the premium or fine, or

(*b*) if the lease is in perpetuity, the whole of the premium or fine shall be paid—

(*i*) to the trustee appointed for the purposes of section 12, sub-section (*3*), or

(*ii*) if no trustee has been so appointed, to a trustee to be appointed for the purpose,

and shall be held by such trustees as part of the settled estate, and shall be invested by him in securities authorized by section 20[1] of the Indian Trusts Act, 1882:

Provided that such trustee may retain for the payment of his expenses and remuneration, such portion of the amount paid to him as may be authorized by rules made under section 37, clause (*c*).

(*4*) In respect of every such lease the best rent shall be reserved that can reasonably be obtained.

(*5*) No payment of any instalment of such rent made to a tenant for life before it falls due shall operate to the prejudice of any subsequent holder of the estate.

Saving of leases of raiyati holdings.

31. Nothing in section 28 or sub-sections (*1*) and (*2*) of section 30 shall apply to leases of *raiyati* holdings.

Bar to sale of settled estate in execution of decree.

32. (*1*) No settled estate or part thereof shall, during the life of a tenant for life, be sold in execution of a decree of a Civil Court.

(*2*) If any decree against a tenant for life of a settled estate is not satisfied the Court may, on the application of the decree-holder, appoint a Receiver of such estate or any part thereof, under the provisions of Chapter XXXVI of the Code of Civil

[1] Printed in the General Acts 1879-86, Ed. 1909, p. 180.

(Part VII—Rights and Powers of Tenant for Life, and Protection of Settled Estate during his Life—Secs 33, 34)

Procedure[1], for the purpose of recovering the amount of the decree and, subject to the rights of any secured creditor over such estate or part, satisfying the claims of the decree holder

(3) An appeal shall lie to the High Court from any order made by a Court under sub section (2).

Sale of settled estate for arrears of land revenue, etc

33. (1) Notwithstanding anything contained in the Bengal Land-revenue Sales Act, 1859[2], or any other law, no settled estate or part of a settled estate shall, without the previous sanction of the Local Government, be sold, during the life of any tenant for life thereof, for an arrear of land-revenue or for any other arrear which is recoverable in the same manner as an arrear of land-revenue

(2) If any settled estate or part of a settled estate be sold, with the sanction required by sub-section (1) of this section, to any person other than the tenant for life, the resulting surplus shall be dealt with in the manner described in sub section (3) of section 29,

and, if the estate or any part thereof be purchased at the sale by the tenant for life, the resulting surplus shall be paid to the tenant for life, and the estate or part so purchased shall, notwithstanding the sale, continue to be subject to the settlement

(3) If the person whose name is entered in any certificate granted under the said Bengal Land-revenue Sales Act, 1859[2], or any other law, as purchaser of a settled estate or part thereof, is not the tenant for life, the said resulting surplus may be retained by such person, and shall not be payable to the tenant for life, even though it may be claimed that the purchase was made by such person on behalf of the tenant for life

Procedure for recovery of such arrears

34. (1) If any such arrear accrues in respect of a settled estate, or any part thereof, during the life of any tenant for life thereof and if the sale of the estate or part for the recovery of arrear is not sanctioned by the Local Government under section 33, the Collector may attach the estate or part,

and shall thereupon be entitled, to the exclusion of all other persons, to receive all rents and other moneys (if any) due to such tenant in respect of such estate or part,

and may manage the estate or part, either directly or through a manager for such period as may be necessary for the recovery of such arrear

(2) Upon the expiration of the period referred to in sub-section (1) the Collector shall deduct from the proceeds of the management the amount of the said arrear and of any similar arrears that may have accrued during such period, and any

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[1] ... 1908 (5 of ...) ... rder XL ...

interest thereon, and the expenses incurred in the management; and shall then—

(*a*) pay the balance of such proceeds to the person then entitled to hold the estate, and

(*b*) furnish such person with an account of the receipts and expenditure during the management, and

(*c*) release the estate or part to such person

(*3*) If, after a settled estate or part thereof held by a tenant for life has been managed and released by the Collector under sub sections (*1*) and (*2*), any such arrear as aforesaid again accrues in respect of the estate or part during the life of the same tenant, and if the sale of the estate or part thereof for the recovery of the arrear is not sanctioned by the Local Government under section 33,

the Court of Wards may take charge of and deal with the estate or part under the provisions of the Court of Wards Act, 1879[1] and may retain such charge until the death of such tenant and, if the next holder is then a minor, until such minor attains his majority,

and the said tenant shall, while the Court of Wards has charge of the estate or part be debarred from receiving any income from the estate or part, other than such monthly sum as the Court of Wards may allow for the support of himself and his family;

and the powers conferred by sections 29 and 30 of this Act shall while the Court of Wards has charge of the estate or part, be exerciseable by the Court of Wards and not by the said tenant

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PART VIII

MISCELLANEOUS

Form publication and duration of permissions granted by Local Government

35. (*1*) Every permission granted by the Local Government under section 8, section 10, sub-section (*3*) section 12, sub-section (*4*) section 13 section 16 or section 24 shall be in writing signed by one of Secretaries to the Local Government, and shall contain a description of the property or person, in respect of which the permission is granted, sufficient to identify the same,

(*2*) Every permission granted by the Local Government under section 8, section 13, section 16 or section 24 shall be

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[1] Printed in Vol II of this Code

published by notification, and shall remain in force until the expiry of twelve months from the date of the notification, or until the death of the applicant, whichever first happens.

Notifications how to be published.

36. Every notification prescribed by this Act shall be published in the Calcutta Gazette * * * * * *[1].

Power to make rules.

37. (*1*) The Local Government may, after previous publication[2], make rules[3] for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing provision, the Local Government may make rules for all or any of the following matters, namely:—

(*a*) the procedure to be followed in submitting an application to the Local Government under this Act;

(*b*) the form and contents of such applications, and the documents (if any) which should accompany them;

(*c*) the payment to trustees, out of the trust property, of expenses properly incurred in or about the execution of any trust created under this Act, and of remuneration for their trouble, skill and loss of time in executing any such trust;

(*d*) the guidance of the Collector in managing estates attached under section 31;

(*e*) the payment or recovery of any expenses incurred by the Government in connection with any proceedings taken under this Act.

Application of Court of Wards Act 1879.

38. The provisions of the Court of Wards Act, 1879[4], so far as they are not inconsistent with the terms of settlements duly made under this Act, shall be applicable to settled estates. Be of

Saving of rights of secured creditors.

39. Nothing in this Act shall affect the rights of any secured creditor—

(*a*) if his incumbrances or any of them have not been set forth in the list prescribed by section 4, clause (*c*), or

(*b*) if he has not assented to any condition inserted in a settlement made under this Act for the discharge or continuance of his incumbrances or any of them.

... Government may ...

BENGAL ACT 1 OF 1905

(THE SUNDARBANS ACT, 1905[1]).

(22nd March, 1905)

An Act to provide for the abolition of the office of Commissioner in the Sundarbans.

Whereas it is expedient to abolish the Office of Commissioner in the Sundarbans;

And whereas the previous sanction of the Governor General has been obtained, under section 5[2] of the Indian Councils Act, 1892, to the passing of this Act,

It is hereby enacted as follows —

Short title

1. This Act may be called the Sundarbans Act, 1905.

Repeal of enactments

2. The Sundarbans Regulation, 1816, and clause *Second* of section 13 of the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828[3] and so much of the Repealing and Amending Act, 1903[4], as relates to the said Sundarbans Regulation, 1816, are hereby repealed.

Collectors to exercise powers and functions of Commissioner in the Sundarbans

3. All the powers and functions heretofore vested in, and exercised by, the Commissioner in the Sundarbans in any district shall henceforth be vested in, and exerciseable by, the Collector of that district.

Construction of references in written instrument

4. In every written instrument relating to land in the Sundarbans executed prior to the commencement of this Act all references to "the Commissioner in the Sundarbans" shall be construed as referring to the Collector of the district in which the land or any part of it is situated.

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a Gazette, 1905, Proceedings in

, see the Bengal Land revenue Assessment (Resumed Lands) Regulation, 1828 (3 of 1828) s 13 (1) in Vol I of this Code

Act, 1903—vide Act

BENGAL ACT 3 OF 1905

(THE BENGAL SMOKE NUISANCES ACT, 1905)

CONTENTS

SECTION

BENGAL ACT 3 OF 1905

(THE BENGAL SMOKE-NUISANCES ACT, 1905[1])

(3rd May, 1905.)

An Act to amend the law relating to the abatement of nuisances arising from the smoke of furnaces or fire-places in the town and suburbs of Calcutta and in Howrah and to provide for the extension thereof to other areas in Bengal.

Whereas it is expedient to amend the law relating to the abatement of nuisances arising from the smoke of furnaces or fire-places in the town and suburbs of Calcutta and in Howrah and to provide for the extension thereof to other areas in Bengal[2]

It is hereby enacted as follows —

1. (*1*) This Act may be called the Bengal Smoke-nuisances Act, 1905, and Short title and extent

(*2*) It extends in the first instance to—

(*a*) the town of Calcutta, as defined in section 3 of the Calcutta Police Act, 1866[3],

(*b*) the suburbs of Calcutta, as for the time being defined by notifications published under section 1 of the Calcutta Suburban Police Act, 1866[3]; and

(*c*) the station of Howrah, as described in the Schedule to the Howrah Offences Act, 1857[4]

2. (*1*) The Local Government may, by notification published in the Calcutta Gazette and in such other manner (if any) as the Local Government may determine, declare its intention to extend this Act to any specified area in Bengal[2] other than the areas mentioned in section 1, sub section (*2*) Power to extend Act

Provided that, if a military cantonment is situated within any area to which it is proposed to extent this Act, no notification shall be published under this sub-section in respect of such area without the previous sanction of the Governor General in Council.

Calcutta Gazette 1905, and for Proceedings in 30 and 54 utta and the station of

ll areas within the local s in the district of the virtue of s 1 (*vide* foot-

The application of the Act is barred in the Chittagong Hill tracts by the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4 (2), printed in Vol I of this Code.

[2] This includes the present Presidency of Fort William in Bengal and other territory

[3] Printed in Vol II of this Code

[4] Printed in Vol I of this Code

(*Secs. 3, 4*)

(2) Any inhabitant of an area to which it is proposed to extend this Act may, if he objects to such extension, submit his objection in writing to the Local Government within a period of three months from the publication of the said notification in the Calcutta Gazette.

(3) At any time after the expiration of the said period, and after considering the objections (if any) submitted under sub-section (2), the Local Government may, by notification[1] in the Calcutta Gazette, extend this Act to the said area.

Definitions

3. In this Act,—

(*1*) "furnace" means any furnace or fire-place used—

(*a*) for working engines by steam, or

(*b*) for the purpose of carrying on any trade, manufacture or industry, in cases not falling under clause (*a*):

Provided that a furnace or fire-place used for any of the following purposes shall not be deemed to be a furnace within the meaning of this Act, namely —

(*i*) household or domestic purposes,

(*ii*) the raising of steam on ocean-going steamers, within such period prior to their leaving the port, or to their moving from one part to another thereof, as may be prescribed by rule made under section 10, sub-section (*2*), clause (*f*), or

(*iii*) the burning of the dead;

(*2*) "Inspector" means a Chief Inspector of Smoke-nuisances or an Assistant Inspector of Smoke-nuisances, appointed under this Act,

(*3*) "the Commission" means the Bengal Smoke-nuisances Commission constituted under this Act;

(*4*) the expression "owner" when used with reference to a furnace includes any agent or hirer using the furnace, and any foreman or other person superintending the working of the furnace; and

(*5*) "Magistrate" means a [illegible]
trate of the first class or a [illegible]
first class powers under the C[illegible] 5 of 1[illegible]

Constitution of Commission.

4. (*1*) The Local Government shall, by notification[2] in the Calcutta Gazette, constitute a Commission, to be called the Bengal Smoke-nuisances Commission, to supervise and control the working of this Act.

(*2*) The said Commission shall consist of a President and so

of 1905.]

(Secs 5, 6)

(3) One-half of the members (exclusive of President) shall be officials nominated by the Local Government; and the remainder shall be non-officials nominated, in such manner as the Local Government may direct, by bodies or associations whose interests are likely to be affected by this Act.

(4) Subject to the provisions of sub-section (3), all members of the Commission shall be appointed, and all vacancies in the Commission shall, as occasion requires, be filled up, by the Local Government by notification in the Calcutta Gazette,

(5) No act done by the Commission shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Commission

Appointment of Inspector

5. (1) The Local Government may, by notification in the Calcutta Gazette, appoint a Chief Inspector of Smoke-nuisances and so many Assistant Inspectors of Smoke-nuisances as it may think fit

(2) Every Assistant Inspector appointed under sub-section (1) shall be subordinate to the Chief Inspector, and all Inspectors shall be subordinate to, and subject to the control of, the Commission

Power to Prohibit the erection of kilns or furnaces, or the manufacture of coke, in specified areas

6. (1) The Local Government may, by notification[1] in the Calcutta Gazette, prohibit, within any specified area,—

(a) the erection of brick, tile or lime kilns,[2]

(b) the erection of furnaces to be used for the calcining or smelting of ores or minerals, or for the casting, puddling or rolling of iron or other metals, or for the conversion of pig-iron into wrought-iron, or

(c) the manufacture of coke, in ovens, or with special appliances, or

(d) the making of coke without ovens or special appliances

Provided that where, prior to the issue of such notification, a license has been granted by the Chairman of the Calcutta Corporation under the provisions of Chapter XXXIII[3] of the Calcutta Municipal Act, 1899, for the erection of a furnace to be used for any of the purposes mentioned in clauses (a) and (b), or for the manufacture of coke as described in clauses (c) and (d), such notification shall not affect such furnace or such manufacture.

(2) If any kiln or furnace be erected in contravention of any notification issued under sub-section (1), clause (a) or clause (b), the owner thereof shall be liable to fine which may extend to two hundred and fifty rupees.

[1] For a reference to a notification issued under section 6(d), *see* the Bengal Local Statutory Rules and Orders, 1912, Vol I, Pt VI, and *for* a further notification, *see* Calcutta Gazette, 1912, Pt I p 1348

[2] *Sic Insert* or

[3] Printed *ante*, p 371

(*Secs. 7-9.*)

(*3*) If any person manufactures coke in contravention of any notification issued under sub-section (*1*), clause (*c*), he shall be liable to fine which may extend, on a first conviction, to two hundred and fifty rupees, and on any subsequent conviction to five hundred rupees

(*4*) If any person makes coke in contravention of any notification issued under sub-section (*1*), clause (*d*), he shall be liable to fine which may extend, on a first conviction, to twenty-five rupees, and on any subsequent conviction to fifty rupees

Power to order demolition of kilns or furnaces erected within prohibited areas

7. (*1*) Whenever a Magistrate imposes a fine on any person under section 6 sub-section (*2*), for erecting a kiln or furnace in contravention of any notification issued under section 6 sub-section (*1*), clause (*a*) or clause (*b*), he may by order direct such person to demolish the kiln or furnace within a period to be specified on the order.

(*2*) If any person fails to demolish any kiln or furnace within the period prescribed in any such order, or within such longer period as the Magistrate may, for special reason, allow he shall be liable to fine which may extend to twenty rupees for every day thereafter during which such failure continues

Penalty when smoke is emitted to a greater extent than is permitted by rules

8. (*1*) If smoke be emitted from any furnace in greater density or at a lower altitude, or for a longer time, than is permitted by rules made under this Act, the owner of the furnace shall be liable to fine which may extend, on a first conviction, to fifty rupees, on a second conviction to one hundred rupees, and on any subsequent conviction to two hundred rupees

(*2*) Sub section (*1*) shall not apply to any furnance which is used—

(*a*) in connection with a brick, tile or lime kiln, or

(*b*) for any of the purposes mentioned in clause (*b*), clause (*c*) or clause (*d*) of section 6.

Powers of Inspectors

9. (*1*) An Inspector may, after giving reasonable notice in writing to the owner, manager, engineer or person in charge—

(*a*) enter and inspect, during working-hours, any building or place which contains a furnace, and inspect such furnace ,

(*b*) under the written authority of the Commission, use and test any appliance used for preventing the emission of smoke from any such furnace; and

(*c*) under the written authority of the Commission, direct that any such furnace be worked or stoked experimentally, during his visit to such building or place, in any manner which he may consider suitable for preventing or reducing the emission of smoke, but

(*Sec 10*)

not so as to interfere with the business carried on in such building or place further than is necessary for the purposes of the experiment

(2) If any owner of a furnace in respect of which a direction is given under clause (*c*) fails to secure compliance with such direction, he shall be liable to fine which may extend to one hundred rupees

10. (*1*) The Local Government may, with the previous sanction of the Governor General in Council, and after previous publication[1], make rules[2] to carry out the objects of this Act. Rules

(*2*) In particular, and without prejudice to generality of sub-section (*1*) such rules may—

(*a*) regulate the transaction of business by the Commission,

(*b*) prescribe the powers and duties to be exercised and performed by the Commission and by Inspectors, respectively, and regulate the exercise and performance of those powers and duties,

(*c*) prescribe a scale for the purpose of determining the density of smoke,

(*d*) prescribe the density of smoke that may be emitted from a furnace

(*e*) prescribe the time during which smoke of such density may be emitted from a furnace,

(*f*) prescribe the period during which, for the purpose of raising steam prior to leaving the port or to moving from one part to another thereof the furnaces of ocean-going vessels shall not be held to be furnaces within the meaning of this Act,

(*g*) prescribe the altitude below which smoke may not be emitted from a furnace,

(*h*) prescribe a procedure for the giving of warning to offenders before instituting a prosecution under this Act, and declare the minimum period which should be allowed to elapse in different classes of cases between the giving of such warning and the institution of a prosecution, and

(*i*) authorize the payment of a fee, not exceeding thirty-two rupees, to each or any member of the Commission attending a meeting of the Commission

(3) The date to be specified in accordance with clause (*3*) of section 24[3] of the Bengal General Clauses Act, 1899, as that

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[1] As to previous publication see the Bengal General Clauses Act, 1899 (Ben Act 1 of 1899), s 24 *ante* p 182

[2] For rules made under section 10, see Calcutta Gazette, 1913, Pt I, p 911

[3] Printed *ante*, p 182

(*Secs. 11-13.*)

after which a draft of rules proposed to be made under this section will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(*4*) Any rule to be made under this Act shall, before it is published for criticism under sub-section (*1*), be referred to the Commission constituted under section 4, and the rule shall not be so published until the said Commission has reported as to the expediency of making the proposed rule and as to the suitability of its provisions.

(*5*) All rules made under this section shall be published in the Calcutta Gazette.

Cognizance of offences

11. A Magistrate may take cognizance of an offence against this Act only—

(*a*) upon a complaint made by, or with the written authority of, the Chief Inspector, and

(*b*) within a period of two months from the date of the commission of the offence.

Disposal of fines

12. All fines recovered under this Act shall be disposed of in such manner as the Local Government may direct.

Repeal

13. The Calcutta and Howrah Smoke-nuisances Act, 1863, is repealed. Ben of 1

BENGAL ACT I OF 1905

[THE CALCUTTA PORT (AMENDMENT) ACT, 1905][1]

(*11th October, 1905*)

An Act to amend the Calcutta Port Act, 1890.[2]

Whereas it is expedient to amend the Calcutta Port Act 1890[2],

It is hereby enacted as follows —

1. This Act may be called the Calcutta Port (Amendment) Act, 1905 Short title

2. In section 5 of the Calcutta Port Act, 1890[2], for the word "fifteen" the word "sixteen" shall be substituted, and for the word "eight" the word "nine" shall be substituted Amendment of section 5

3. In section 6, sub-section (*1*), of the said Act[2], for the word "five" the word "six" shall be substituted Amendment of section 6

4. After clause (*7*) of section 35 of the said Act[2], the following shall be inserted, namely — Amendment of section 35

(*7a*) [Printed in Vol II of this Code]

5. After section 105 of the said Act the following shall be inserted namely — Insertion of new section 105A

105A [Printed in Vol II of this Code]

6. In section 106 of the said Act[2], for the words "for hire" the words "whether for hire or not, and" shall be substituted Amendment of section 106

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[1] Calcutta Gazette, 1905

BENGAL ACT 6 OF 1905

[THE CALCUTTA AND SUBURBAN POLICE (SUPERANNUATION FUND) ACT, 1905][1]

(27th December, 1905)

An Act to abolish the Calcutta and Suburban Police Superannuation Fund.

Whereas it is expedient to abolish the Calcutta and Suburban Police Superannuation Fund;

It is hereby enacted as follows:—

1. This Act may be called the Calcutta and Suburban Police (Superannuation Fund) Act, 1905. *Short title*

2. The enactments specified in the first column of the Schedule, are hereby repealed, to the extent mentioned in the third column thereof. *Repeal of enactments*

3. All sums standing to the credit of the Calcutta and Suburban Police Superannuation Fund shall vest in His Majesty, to be applied, under rules[2] made by the Local Government in this behalf, towards the grant of pensions or gratuities to members of the Police force of the town or suburbs of Calcutta. *Transfer and application of Calcutta and Suburban Police Superannuation Fund*

THE SCHEDULE

ENACTMENTS REPEALED

1	2	3
Number and year	Short title	Extent of repeal
	Acts of the Bengal Council	
[3]2 of 1866	The Calcutta Suburban Police Act 1886[4]	So much of section 10 as has not been repealed
[3]4 of 1866	The Calcutta Police Act 1866	So much of section 16 as has not been repealed
1 of 1890	The Calcutta and Suburban Police (Superannuation Fund) Act 1890	So much as has not been repealed

... Gazette, 1905,
... he Calcutta and
... tory Rules and

[4] Sic. Read 1866

BENGAL ACT 1 OF 1906

[THE BENGAL COURT OF WARDS (AMENDMENT) ACT, 1906].

CONTENTS.

SECTION

BENGAL ACT 1 OF 1906

[THE BENGAL COURT OF WARDS (AMENDMENT) ACT, 1906] [1]

(28th March, 1906)

An Act to amend the Court of Wards Act, 1879.

Whereas it is expedient to amend the Court of Wards Act, 1879 [2],

And whereas the previous sanction of the Governor General has been obtained, under section 5 [4] of the Indian Councils Act, 1892, to the provisions of this Act which affect Acts passed by the Governor General of India in Council,

It is hereby enacted as follows —

1. This Act may be called the Bengal Court of Wards (Amendment) Act, 1906 — Short title

2. In section 9 of the Court of Wards Act, 1879 [2] [as amended by the Court of Wards Act (Bengal) Amendment Act, 1892 [3]], the words, figures and letters from "And in any case in which the Court has taken charge" to the end of the section are hereby repealed — Partial repeal of section 9 of Bengal Act 9 of 1879

3. After section 10 of the said Court of Wards Act, 1879 [2], the following shall be inserted, namely — — Insertion of new sections 10 A to 10 E

10 A to 10 E [Printed in Vol II of this Code]

4. After section 13 of the said Act [5] the following shall be inserted, namely — — Insertion of new section 13 A

13A [Printed in Vol II of this Code]

5. After section 34 of the said Act [5] the following shall be inserted, namely — — New section 34 A

34 A [Printed in Vol II of this Code]

6. The words from "or to a proprietor," to the end of section 56 of the Court of Wards Act 1879 [2] [as amended by the Court of Wards Act (Bengal) Amendment Act, 1892 [3]] are hereby repealed — Partial repeal of section 56

7. After section 59 of the said Act [5] the following shall be inserted, namely — — Insertion of new section 59 A

59 A [Printed in Vol II of this Code]

(*Secs 8-10*)

Insertion of new section 60 B

8. After section 60 A of the Court of Wards Act, 1879[1] [as amended by the Court of Wards Act (Bengal) Amendment Act, 1892[2]], the following shall be inserted namely —

60 B [Printed in Vol II of this Code]

Repeal of section 62

9. Section 62 of the Court of Wards Act, 1879,[1] is hereby repealed

New section 64 A

10. After section 64 of the said Act[3] the following shall be inserted, namely —

64 A [Printed in Vol II of this Code]

[1] Printed in Vol II of this Code
[2] Printed in Vol I of this Code
[3] The Court of Wards Act 1879 It is printed in Vol II of this Code

BENGAL ACT I OF 1907

[THE BENGAL TENANCY (AMENDMENT) ACT, 1907]

CONTENTS

BENGAL ACT 1 OF 1907

[THE BENGAL TENANCY (AMENDMENT) ACT, 1907][1]

(22nd May, 1907)

An Act to amend and supplement the Bengal Tenancy Act, 1885.[2]

Whereas it is expedient to amend the Bengal Tenancy Act, 1885[2], in the manner hereinafter appearing;

And whereas the previous sanction of the Governor General has been obtained under section 5[3] of the Indian Councils Act, 1892, to the passing of this Act;

It is hereby enacted as follows:—

1. This Act may be called the Bengal Tenancy (Amendment) Act, 1907. Short title.

2. Sections 14 and 45 of the Bengal Tenancy Act, 1885[2], are hereby repealed. Repeal of sections 14 and 45 of Act 8 of 1885.

3. (*1*) In sub-section (*3*) of section 1 of the said Act[4], after the words "the town of Calcutta" the words "any area constituted a Municipality under the provisions of the Bengal Municipal Act, 1884, or part thereof, and specified in a notification in this behalf by the Local Government" shall be inserted. Additions to section 1.

(*2*) To the said sub-section the following *Explanation* shall be added, namely:—

Explanation.—[Printed in Vol. I of this Code.]

4. In section 3 of the Bengal Tenancy Act, 1885[2],— Amendment of clauses (*5*) and (*10*) of section 3.

(*1*) in clause (*5*), after the word and figures "Chapter XII," the word and figures "Chapter XIV" shall be inserted;

(*2*) for clause (*10*) the following shall be substituted, namely:—

(*10*) [Printed in Vol. I of this Code.]

5. (*1*) To sub-section (*2*) of section 12 of the said Act[4] the following shall be added, namely:— Amendment of sections 12 and 13 (*2*).

"together with the costs necessary for the transmission of the landlord's fee to the landlord."

(*Secs. 6-10*)

(2) In sub-section (3) of the said section, and in sub-section (2) of section 13,—

(i) after the words "landlord's fee" the words "the costs necessary for the transmission of the same" shall be inserted;

(ii) for the word "paid" the word "transmitted" shall be substituted, and

(iii) after the word "landlord" the words "named in the notice" shall be inserted

Amendment of sections 13 (1) and 15

6. (*1*) In sub-section (*1*) of section 13 of the said Act[1], after the words "foregoing section", and in section 15 after the word and figures "section 12", the words "together with the costs necessary for its transmission to the landlord" shall be inserted

(2) In the said section 15,—

(i) for the word "paid" the word "transmitted" shall be substituted, and

(ii) after the word "landlord" the words "named in the notice" shall be inserted

Amendment of section 16

7. In section 16 of the said Act[1], for the words "and fees" the words "fees and costs" shall be substituted

New Chapter IVA sections 18A to 18C

8. After section 18 of the said Act[1] the following shall be inserted, namely —

Chapter IVA —18A to 18C [Printed in Vol I of this Code] 8 of 1885

Amendment of section 19

9. (*1*) Section 19 of the Bengal Tenancy Act, 1885[2], shall be re-numbered section 19, sub-section (*1*)

(2) In the said sub-section (*1*), after the words "this Act", in both places where they occur, the words, brackets and figures "or the Bengal Tenancy (Amendment) Act, 1907," shall be inserted Ben Act 1 1907

(3) After the said sub-section (1) the following shall be inserted, namely —

(2) [Printed in Vol I of this Code] 8 of 1885

Amendment of section 22

10. In section 22 of the Bengal Tenancy Act, 1885[2],—

(*a*) in sub-section (*1*), for the words "the occupancy-right shall cease to exist" the words "such person shall have no right to hold the land as a tenant, but shall hold it as a proprietor or permanent tenure-holder (as the case may be)" shall be substituted,

(*b*) in sub-section (2) for the words from "it shall cease to exist" to the end of the sub-section the following shall be substituted, namely —

[Printed in Vol I of this Code]

(*c*) in sub-section (3), after the word "acquire" the words "by purchase or otherwise" shall be inserted

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[1] The Bengal Tenancy Act 1885 It is printed in Vol I of this Code
[2] Printed in Vol I of this Code

(*Secs* 11-18)

11. In section 40 of the said Act[1],— Amendment of section 40

(*i*) in sub-section (*1*), after the words "partly in another" the words "or partly in any of those ways and partly in cash" shall be inserted,

(*ii*) in sub-section (*2*), for the words "an officer making a settlement of rents" the following shall be substituted, namely —

"a Revenue-officer appointed by the Local Government under the designation of Settlement Officer or Assistant Settlement Officer for the purpose of making a survey and record-of-rights,"

(*iii*) in clause (*b*) of sub section (*4*), the word "and" shall be omitted, and

(*iv*) to the said sub-section (*4*) the following shall be added, namely —

[Printed in Vol I of this Code]

12. After section 40 of the said Act[1] the following shall be inserted, namely — New section 40A

40A [Printed in Vol I of this Code]

13. To section 52 of the said Act[1] the following shall be added, namely — Addition to section 52

(*b*) [Printed in Vol I of this Code]

14. For sub-section (*3*) of section 58 of the said Act[1] the following shall be substituted, namely — Amendment of section 58

(*3*) to (*8*) [Printed in Vol 1 of this Code]

15. In section 67 of the Bengal Tenancy Act 1885,[2]— Amendment of section 67

(*a*) after the word 'twelve" the words 'and-a-half' shall be inserted, and

(*b*) for the words "to the institution of the suit" the words "to the date of payment or of the institution of the suit, whichever date is earlier," shall be substituted

16. (*1*) To sub-section (3) of section 69 of the said Act[1] the following shall be added, namely — Amendment of section 69

[Printed in Vol I of this Code]

(*2*) To the said section the following shall be added, namely —

(*4*) [Printed in Vol I of this Code]

17. In section 75 of the Bengal Tenancy Act, 1885,[2] after the word "rent" the words "or interest" shall be inserted Amendment of section 75

18. (*1*) In section 88 of the said Act[1], for the words "with his consent in writing" the words "with his express consent in writing, or with that of his agent duly authorized in that behalf" shall be substituted Amendment of section 88

(*2*) To the same section the following proviso shall be added, namely —

[Printed in Vol I of this Code]

[1] The Bengal Tenancy Act 1885 It is printed in Vol I of this Code
[2] Printed in Vol I of this Code

(*Secs 19-25*)

Amendment of sub section (2) of section 101

19. In sub-section (*2*) of section 101 of the said Act[1],—

(*1*) For clause (*a*) the following clause shall be substituted, namely —

(*a*) [Printed in Vol I of this Code]

(*2*) to clause (*c*) the following shall be added, namely —

"or a Manager appointed by the District Judge under section 95"

Amendment of section 102

20. In section 102 of the said Act[1],—

(*1*) after clause (*d*) the following clause shall be inserted, namely —

"(*dd*) the name of each proprietor in the local area or estate,"

(*2*) after clause (*g*) the following clause shall be inserted, and shall be deemed to have been so inserted from the commencement of the Bengal Tenancy (Amendment) Act, 1898[2], namely — Ben Act I of 1898

(*gg*) [Printed in Vol I of this Code]

(*3*) after clause (*h*) the following shall be inserted, namely —

"(*i*) any right of way or other easement attaching to the land for which a record-of-rights is being prepared,"

and the existing clause (*i*) shall be re lettered clause (*j*)

New section 102A

21. After section 102 of the Bengal Tenancy Act, 1885[3], so 8 of 1885 amended, the following shall be inserted, namely —

102A [Printed in Vol I of this Code]

Amendment of section 103B

22. For section 103B of the said Act[1] the following shall be substituted, namely —

103B [Printed in Vol I of this Code]

Amendment of heading to Part II of Chapter X

23. In the heading to Part II of Chapter X of the said Act[1], for the words "decision of disputes" the words "disposal of objections" shall be substituted

Amendment of sections 104 and 105

24. (*1*) In clause (*b*) of section 104, and in sub section (*2*) of section 105 of the said Act[1], for the word, letter and brackets "clause (*i*)" the word, letter and brackets "clause (*j*)" shall be substituted

(*2*) To the said section 104 the following proviso shall be added, namely —

[Printed in Vol I of this Code]

Amendment of sub-section (3) clause (g) of section 104H

25. In clause (*g*) of sub-section (*3*) of section 104H of the said Act[1], for the words "have not been recorded or have" the words "or any right of way or other easement attaching to the land which is the subject of the tenancy have not, or has not, been recorded or have, or has," shall be substituted

[1] The Bengal Tenancy Act, 1885 It is printed in Vol I of this Code
[2] Printed *ante* p 169
[3] Printed in Vol I of this Code

of 1907.]

(*Secs. 26-36.*)

26. After section 105 of the said Act[1] the following shall be inserted, namely — New section 105A

105A [Printed in Vol I of this Code.]

27. The section 106 of the said Act[1] the following proviso shall be added, namely — Addition of proviso to section 106

[Printed in Vol I of this Code]

28. In section 107 of the said Act[1],— Amendment of section 107

(*a*) in sub section (*1*), for the words and figures "In all proceedings for the settlement of rents under this Part, and in all proceedings under section 106" the words, figures and letter "In all proceedings under section 105, section 105A and section 106" shall be substituted, and

(*b*) for sub-section (*2*) the following shall be substituted, namely —

(*2*) [Printed in Vol I of this Code]

29. In section 108 of the said Act[1] after the word and figures "section 105" the word, figures and letter "section 105A" shall be inserted Amendment of section 108

30. After section 108 of the said Act[1] the following shall be inserted, namely — New section 108A

108A [Printed in Vol I of this Code]

31. In section 109 of the said Act[1], for the words and figures "or suit instituted under section 105, section 106, section 107 or section 108", the words, figures and brackets "suit instituted or proceedings taken under sections 105 to 108 (both inclusive)" shall be substituted Amendment of section 109

32. In sub section (*2*) of section 109A of the said Act[1], after the figures "108" the letter "A" shall be inserted Amendment of section 109A

33. In Part IV of Chapter X of the said Act[1] so amended, immediately before section 110, the following shall be inserted, namely — New sections 109B 109C and 109D

109B to 109D [Printed in Vol I of this Code]

34. In section 111 of the said Act[1], after the word "entertain" the words and figures "any application made under section 158, or" shall be inserted Amendment of section 111

35. After section 111A of the said Act[1], the following shall be inserted, namely — New section 111B

111B [Printed in Vol I of this Code]

36. (*1*) In sub section (*1*) of section 112 of the said Act[1], for the words "invest a Revenue-officer acting under this Chapter" the following shall be substituted, namely — Amendment of section 112

"or that any landlord is demanding rents which have been illegally enhanced above those entered as payable in a record-of-rights prepared under this Chapter, invest a Revenue-officer."

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[1] The Bengal Tenancy Act, 1885 It is printed in Vol I of this Code

(2) After sub-section (2) of the said section the following shall be inserted, namely —

"(2a) A settlement of rents under this section shall be made in the manner provided by sections 104 to 104J (both inclusive)"

(3) To sub-section (3) of the said section the following shall be added, namely —

"and the revision, by direction of the Board of Revenue under sub-section (2) of section 104G, of a record-of-rights, or any portion of a record-of-rights, prepared under this section, shall be subject to a like confirmation by the Governor General in Council"

Amendment of section 114

37. In section 114 of the said Act[1],—

(1) in sub section (1),—

(a) the words "by the Government" are hereby repealed, and

(b) for the words "from time to time in the maintenance," the following shall be substituted, namely —

"at any time, whether before or after the preparation of the record-of-rights, in the maintenance, repair or restoration",

(c) after the word "proportions" the words and brackets "and in such instalments (if any)," shall be inserted

(2) after sub section (1), the following shall be inserted namely —

(2) [Printed in Vol I of this Code]

(3) the present sub section (2) shall be re-numbered sub-section (3), and

(4) after sub-section (3), so re-numbered, and before the *Explanation*, the following shall be inserted, namely —

(4) [Printed in Vol I of this Code]

New section 115A

38. After section 115 of the said Act[1] the following shall be inserted, namely —

115A [Printed in Vol I of this Code]

Addition to heading to Chapter XI

39. To the heading to Chapter XI of the Bengal Tenancy Act, 1885[2], the following words shall be prefixed, namely — 8 of 1885

"NON-ACCRUAL OF OCCUPANCY AND NON-OCCUPANCY RIGHTS, AND"

Amendment of section 116

40. In section 116 of the said Act, after the words "shall apply to" the following shall be inserted, namely — 1 of 1894

lands acquired under the Land Acquisition Act, 1894, for the Government or for any Local Authority or for a Railway Company, or lands belonging to the Government within a

[1] The Bengal Tenancy Act 1885 It is printed in Vol I of this Code
[2] Printed in Vol I of this Code

(*Secs. 41-52*)

Cantonment, while such lands remain the property of the Government or of any Local Authority or Railway Company, or to"

41. After sub-section (2) of section 120 of the Bengal Tenancy Act, 1885[1], the following shall be inserted, namely — Amendment of section 120

(*2a*) [Printed in Vol I of this Code]

42. After section 147 of the said Act[2] the following shall be inserted, namely — New sections 147A and 147B

147A, 147B [Printed in Vol I of this Code]

43. (*1*) After clause (*b*) of section 148 of the Bengal Tenancy Act, 1885[1], the following shall be inserted, namely — Amendment of section 148

(*b1*) (*b2*) [Printed in Vol I of this Code]

(*2*) After clause (*f*) of the same section the following shall be inserted, namely —

(*ff*) [Printed in Vol I of this Code]

44. After section 148 of the said Act[2] the following shall be inserted, namely — New section 148A

148A [Printed in Vol I of this Code]

45. The words 'except for special reasons to be recorded in writing", in sections 149 and 150 of the said Act[2] are hereby repealed Amendment of sections 149 and 150

46. To section 153 of the said Act[2] the following *Explanation* shall be added, namely — Addition of *Explanation* to section 153

Explanation —[Printed in Vol I of this Code]

47. After section 153 of the said Act[2] the following shall be inserted, namely — New section 153A

153A [Printed in Vol I of this Code]

48. In sub section (*1*) of section 158 of the Bengal Tenancy Act, 1885[1], before the words 'The Court having jurisdiction" the words and figures ' Subject to the provisions of section 111 ' shall be inserted Amendment of sub section (*1*) of section 158

49. After section 158 of the said Act[2] the following shall be inserted namely — New Chapter XIIIA and new section 158A

Chapter XIIIA —S 158A [Printed in Vol I of this Code] [This section was further revised by Ben Act 3 of 1913 s 60 printed *post* p 806]

50. In Chapter XIV of the Bengal Tenancy Act 1885[1], immediately before section 159, the following shall be inserted, namely — New section 158B

[3] 158B [Printed in Vol I of this Code]

51. To section 161 of the said Act[2] the following shall be added, namely — Addition of clause (c) to section 161

(*c*) [Printed in Vol I of this Code]

52. In sub-section (*1*) of section 168 of the said Act[2], for the words "decrees for rent" the words " a decree for an arrear of rent" shall be substituted Amendment of section 168

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[1] Printed in Vol I of this Code
[2] The Bengal Tenancy Act 1885 It is printed in Vol I of this Code
[3] Sub-section (*1*) of s 158B was further revised by Ben Act III of 1913 s 61 printed *post* p 808

(*Secs 53-61*)

Amendment of sub section (1) of section 169 and addition of proviso

53. (*1*) In clause (*c*) of sub-section (*1*) of section 169 of the said Act[1], after the words "the date of" the words "the confirmation of" shall be inserted.

(*2*) To the said sub-section the following proviso shall be added, namely —

[Printed in Vol. I of this Code]

Amendment of section 170

54. In section 170 of the said Act[1], after the words and brackets "(both inclusive)," the word, figures and letter "and 310A" shall be inserted.

Amendment of section 174

55. To the proviso to sub-section (*2*) of section 174 of the said Act[1] the following shall be added, namely —

"and if he applies under this section, he shall not be entitled to make an application under section 311 of the Code of Civil Procedure" 14 of 1882

Amendment of sub-section (3) of section 178

56. (*1*) In proviso (*iii*) to section 178 of the Bengal Tenancy Act, 1885[2], after the words "cultivation of" the words "horticultural or" shall be inserted. 8 of 1885

(*2*) To the same proviso the following *Explanation* shall be added, namely —

Explanation —[Printed in Vol I of this Code]

New heading and new section 186A

57. After section 186 of the said Act[1] the following shall be inserted, namely —

"*Damages for denial of landlord's title.*"

186A [Printed in Vol I of this Code]

New section 188A

58. After section 188 of the said Act[1] the following shall be inserted namely —

188A [Printed in Vol I of this Code]

New clauses (2) (3) and (4) in section 189

59. For sub-section (*2*) of section 189 of the said Act[1] the following shall be substituted, namely —

(*2*) to (*4*) [Printed in Vol I of this Code.]

Amendment of section 192

60. In section 192 of the said Act[1], before the words "fix a fair and equitable rent" the words "or of his own motion" shall be inserted

Amendment of Schedule III

61. In Schedule III to the said Act[1],—

(*1*) after Article 1 the following shall be inserted, namely —

1 (*a*) To eject a non occupancy *raiyat* on the ground of the expiration of the term of his lease	Six months	The expiration of the term"

(*2*) in Article 2,—

(*a*) after the words "arrear of rent" the following shall be inserted, namely —

[1] The Bengal Tenancy Act 1885 It is printed in Vol I of this Code
[2] Printed in Vol I of this Code

of 1907.]

(Sec 61)

"in a suit brought by—
(i) a sole landlord,
(ii) the entire body of landlords, or
(iii) one or more co-sharer landlords,"

(b) for the entry in the third column opposite clause (b) the following entry shall be substituted, namely —

"the last day of the agricultural year in which the arrear fell due"

(3) in Article 3, for the words "an occupancy-*raiyat*" the words "a *raiyat* or an under-*raiyat*" shall be substituted,

(4) in Article 6 for the words "under this Act or any Act repealed by this Act," the words "in a suit between landlord and tenant to whom the provisions of this Act are applicable," shall be substituted

BENGAL ACT 2 OF 1907

[The Calcutta Port (Amendment) Act, 1907][1]

(9th October, 1907)

An Act to amend the Calcutta Port Act, 1890[2].

Whereas it is expedient to amend the Calcutta Port Act, 1890[2], in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. This Act may be called the Calcutta Port (Amendment) Act, 1907. *Short title*

2. In section 19 of the Calcutta Port Act, 1890[2], after the word "borrow" the words "within such dates as may be approved by the Governor General in Council," shall be inserted. *Amendment of section 19 of Ben Act 3 of 1890*

3. For sub-section (*1*) of section 20 of the said Act[3], the following shall be substituted, namely:— *Amendment of section 20*

20 (*1*), (*2*), (*3*) [Printed in Vol II of this Code],

and the existing sub-section (*2*) shall be re-numbered sub-section (*4*).

4. In section 22 of the said Act[3], after the words "previous sanction of" the words "and within such dates as may be approved by" shall be inserted. *Amendment of section 22*

5. In sub-section (*1*) of section 24 of the said Act[3], for the words "a period not exceeding thirty years from the date of the contracting of the same" the following words shall be substituted, namely:— *Amendment of section 24 (1)*

"within such period, not exceeding sixty years, from the date of the contracting of the same as the Governor General in Council may in each case direct."

6. After section 24 of the said Act[3] the following shall be inserted, namely:— *New section 24A*

24A. [Printed in Vol II of this Code.]

7. In sub-section (*1*) of section 91 of the said Act[3], for the word "Third" the word "Second" shall be substituted. *Amendment of section 91 (1)*

8. In section 108 of the said Act[3], as amended by the Calcutta Port (Amendment No 1) Act, 1895,— *Amendment of section 108*

(*1*) for the words from "If, on the preparation" to the words "requisite in every case" the words "The

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[1] Legislative Papers.—For Statement of Objects and Reasons *see* Calcutta Gazette 1907 Pt IV, p 46; for Proceedings in Council *see ibid* Pt IV A pp 303 3 8 and 379.
Local Extent.—This Act extends only to the Port of Calcutta.
[2] Printed in Vol II of this Code.
[3] The Calcutta Port Act, 1890. It is printed in Vol II of this Code.

Commissioners may from time to time," shall be substituted,

(2) for the words "as will, when added to the said income of the year, suffice as nearly as may be for the payment of the said sums in full" the words "as the Commissioners may think fit and expedient", shall be substituted.

Repeal of section 110. **9.** Section 110 of the Calcutta Port Act, 1890[1], is hereby repealed. Ben. Act 3 of 1890.

Repeal of Second Schedule. **10.** The Second Schedule to the said Act[2] is hereby repealed, and the existing "Third Schedule" shall be re-numbered "Second Schedule."

[1] Printed in Vol. II of this Code.
[2] The Calcutta Port Act, 1890. It is printed in Vol. II of this Code.

BENGAL ACT 3 OF 1907

[THE CALCUTTA AND SUBURBAN POLICE (AMENDMENT) ACT, 1907][1]

(9th October, 1907.)

An Act to amend the Calcutta Police Act, 1866[2], and the Calcutta Suburban Police Act, 1866[2].

Whereas it is expedient to amend the Calcutta Police Act, 1866[2], and the Calcutta Suburban Police Act, 1866[2], in the manner hereinafter appearing.

It is hereby enacted as follows —

Short title

1. This Act may be called the Calcutta and Suburban Police (Amendment) Act, 1907.

Amendment of section 43 of Ben Act 4 of 1866 and section 17 of Ben Act 2 of 1866

2. For section 43 of the Calcutta Police Act, 1866[2], and for section 17 of the Calcutta Suburban Police Act, 1866[2], the following shall be substituted, namely —

43, 43A, 43B, 43C [Printed in Vol II of this Code]

17, 17A, 17B, 17C. [Printed in Vol II of this Code]

Repeal of Ben Act 3 of 1906, in certain Suburban Municipalities

3. The Bengal Disorderly Houses Act, 1906[3], is hereby repealed within every municipality constituted under the Bengal Municipal Act, 1884[2], in which the Calcutta Suburban Police Act, 1866[2], is in force

Amendment of sections 46 and 80 of Ben Act 4 of 1866

4. In section 46 and in section 80 of the Calcutta Police Act, 1866[2], for the word "Inspector" the word 'Sub-Inspector" shall be substituted

Amendment of section 51 of Ben Act 4 of 1866

5. In section 51 of the said Act[4]—

(*a*) the words "not exceeding one-fourth" shall be omitted, and

(*b*) for the words "an informer" the words "any person who has contributed in any way to the conviction," shall be substituted

6. *(Amendment of section 62 of Ben Act 4 of 1866 and section 39 of Ben Act 2 of 1866) Rep by the Calcutta and Suburban Police (amendment) Act, 1910 (Ben Act 3 of 1910)*

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[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons *see* Calcutta Gazette, 1907 Pt IV, p 41 for Proceedings in Council *see ibid* Pt IV A pp 304 to 308 and 329 to 335

LOCAL EXTENT —This Act, like the Acts which it amends extends only to Calcutta and its Suburbs

[2] Printed in Vol II of this Code

[3] Bengal Act 3 of 1906 has been repealed by the Bengal Laws Act, 1914 (Ben Act 1 of 1914) s 6, Sch IV, printed *post* p 805 The Eastern Bengal and Assam Disorderly Houses Act 1907 (E B & A Act 2 of 1907), has been extended to Western Bengal by the same Act, s 4, Sch II and is printed *post* p 947

The Bengal Laws Act, 1914, provides that E B & A Act 2 of 1907 shall not apply to Municipalities constituted under Ben Act 3 of 1884, in which Ben Act 2 of 1866 is in force *vide* s 4 (proviso), printed *post*, p 849

[4] The Calcutta Police Act, 1866 It is printed in Vol II of this Code

Amendment of clause (13) of section 66 of Ben Act 4 of 1866, and of clause (13) of section 40 of Ben Act 2 of 1866

7. In clause *(13)* of section 66 of the Calcutta Police Act, 1866[1], and in clause *(13)* of section 40 of the Calcutta Suburban Police Act, 1866[1], for the words "or fence," in both places in in which they occur, the words "tree, fence, post, pole or other erection" shall be substituted.

Ben. Act 4 of 1866. Ben. Act 2 of 1866.

8. *(Amendment of section 72 of Ben. Act 4 of 1866.) Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910).*

9. *(Amendment of section 43 of Ben. Act 2 of 1866.) Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910).*

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[1] Printed in Vol II of this Code

BENGAL ACT I OF 1908

[THE CALCUTTA PORT (AMENDMENT) ACT, 1908] [1]

(22nd April, 1908.)

An Act further to amend the Calcutta Port Act, 1890.

3 Whereas it is expedient further to amend the Calcutta Port Act, 1890[2], in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. This Act may be called the Calcutta Port (Amendment) Act, 1908.

2. After section 20 of the Calcutta Port Act, 1890[2], the following shall be inserted, namely:—

20A. [Printed in Vol. II of this Code.]

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[1] LEGISLATIVE PAPERS.—For Proceedings in Council, see Calcutta Gazette, 1908, Pt. IV A, p. 190.
LOCAL EXTENT.—This Act extends only to the Port of Calcutta.

[2] Printed in Vol. II of this Code.

BENGAL ACT 3 OF 1908

[THE PURI LODGING-HOUSE (AMENDMENT) ACT, 1908].[1]

(*6th May, 1908*)

An Act further to amend the Puri Lodging-house Act, 1871[2].

Whereas it is expedient further to amend the Puri Lodging-house Act, 1871[2],

It is hereby enancted as follows —

1. This Act may be called the Puri Lodging-house (Amendment) Act, 1908. Short title

2. The words "and other towns in Orissa," in the title and preamble to the Puri Lodging-house Act, 1871[2], are hereby repealed. Partial repeal of title and preamble to Ben Act 4 of 1871

3. (*1*) In the definition of "lodger," in section 1 of the said Act[3] for the words "an inmate" the words "a pilgrim" shall be substituted. Amendment of section 1

(*2*) To the said definition the following shall be added, namely —

[Printed in Vol II of this Code]

4. (*1*) In section 4 of the said Act[3],— Amendment of section 4 and repeal of Schedules A and B

(*a*) for the words in the form set forth in Schedule A of this Act" and

(*b*) for the words "in the form set forth in Schedule B of this Act,"

the following words shall respectively be substituted, namely —

"in such form as the Lieutenant-Governor may, by notification, prescribe in this behalf"

(*2*) Schedules A and B to the said Act[3] are hereby repealed.

5. In section 7 of the said Act[3],— Amendment of section 7

(*a*) for the word "two" the word "five" shall be substituted; and

(*b*) after the word "each" the words "day or" shall be inserted.

6. In section 8 of the said Act[3], for the words "a fee, calculated at the rate of eight annas for each person upon the Amendment of section 8

[illegible] ...utta Gazette, 1908, [illegible] ...d 190 to 198 [illegible] ... originally to have [illegible] ...hich the Puri Lodg[illegible] ...ce It now applies, [illegible]

[illegible] Puri Lodging house Act, 1871 It is printed in Vol. II of this Code

entire number of lodgers mentioned in such license, shall be payable," the following shall be substituted, namely:—

"a fee shall be payable, calculated upon the entire number of lodgers which is mentioned in the certificate, at such rate, not exceeding one rupee for each lodger, as the Lieutenant-Governor may, by notification, direct"

Amendment of section 9. **7.** In section 9 of the said Act[1], for the words "for twelve calendar months from the day of its date" the words "till the thirty-first day of December of the year in which it is granted" shall be substituted

Amendment of section 10. **8.** (1) The word "reasonable," where it first occurs in section 10 of the said Act[1], is hereby repealed

(2) To the said section the following shall be added, namely —

[Printed in Vol II of this Code]

New section 11A. **9.** After section 11 of the said Act[1], the following shall be inserted, namely —

11A [Printed in Vol II of this Code]

New section 12A. **10.** After section 12 of the Puri Lodging-house Act, 1871[2], the following shall be inserted, namely — Ben Act 4 of 1871.

12A [Printed in Vol II of this Code]

Amendment of section 13. **11.** In section 13 of the said Act[1], for the word "inmates" the word "lodgers" shall be substituted

Amendment of section 14. **12.** For section 14 of the said Act[1], the following shall be substituted, namely —

14 [Printed in Vol II of this Code.]

Amendment of section 17. **13.** (1) The portion of section 17 of the said Act[1], from the words "Every keeper of a lodging-house" to the words "suspension of his license" shall be re-numbered section 17, sub-section (1), and the remainder shall be numbered sub-section (2)

(2) In the said sub-section (1), for the word "inmates," in both places in which it occurs the word "lodgers" shall be substituted, and for the words "an inmate of" the words "a lodger in" shall be substituted

(3) The words "and of the number of lodgers mentioned in such license" in the said sub-section (1), are hereby repealed

(4) To the said sub-section (1) the following shall be added, namely —

"shall be liable to be punished by a fine not exceeding five rupees for each lodger so found"

(5) In the said sub-section (2)—

(a) for the words "or who shall refuse or neglect" the words "Every keeper of a lodging-house who refuses or neglects" shall be substituted, and

(b) after the words "thereunto required or" the words and figures "who fails, without resonable cause, to

[1] The Puri Lodging-house Act 1871. It is printed in Vol II of this Code

[2] Printed in Vol II of this Code

maintain the register prescribed by section 12A, or to make any entry therein which is prescribed by that section, or" shall be inserted.

14. After section 21 of the said Act[1], the following shall be inserted, namely:— [illegible]

21A. [Printed in Vol. II of this Code.]

15. In section 30 of the said Act[1] for the words "one month" the words "two months" shall be substituted. [illegible]

16. The enactments specified in the Schedule are hereby repealed to the extent mentioned in the third column thereof. [illegible]

THE SCHEDULE

(See section 16.)

ENACTMENTS REPEALED

Number and Year	Short title	Extent of repeal
1	2	3
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]

[illegible]

BENGAL ACT 5 OF 1908

[THE BENGAL LOCAL SELF GOVERNMENT (AMENDMENT) ACT, 1908]

CONTENTS.

SECTION

BENGAL ACT 5 OF 1908

[THE BENGAL LOCAL SELF-GOVERNMENT (AMENDMENT) ACT, 1908[1]]

(28th October, 1908.)

An Act to amend the Bengal Local Self-Government Act of 1885.[2]

Whereas it is expedient to amend the Bengal Local Self-Government Act of 1885[2] in manner hereinafter appearing;

It is hereby enacted as follows —

1. This Act may be called the Bengal Local Self-Government (Amendment) Act, 1908. Short title

2. The following portions of the Bengal Local Self-Government Act of 1885[2] are hereby repealed, namely — Repeal of portions of Bengal Act 3 of 1885

in section 1, the words "or of the districts Singhbhum, the Sonthal Parganas or the Chittagong Hill-tracts;"

in the proviso to section 6, the words "and in any other sub-division to which the provisions of the next succeeding Chapter shall have been extended,"

section 16,

section 24;

the last paragraph of section 25,

section 34,

section 72,

the proviso to section 73, and

in section 103, the words "A Local Board shall exercise powers of supervision and control over all Union Committees within the area under its authority, and"

3. To section 5 of the said Act[3], the following shall be added, namely — Addition to section 5

"and 'sanitation' includes water-supply."

4. (1) In section 7 of the said Act[3], after the figures "22" the words, figures and letter "section 23A or section 29" shall be inserted. Amendment of sections 7, 11 and 15

1

(Secs. 5-12.)

(2) For the words "Lieutenant-Governor," where they occur in the sixth paragraph of section 7, in section 11, and in the first paragraph of section 15 of the said Act[1], the word "Commissioner" shall be substituted.

New section 10.

5. For section 10 of the said Act[1], the following shall be substituted, namely:—

10. [Printed in Vol. II of this Code.]

Amendment of proviso to section 13.

6. In clause (2) of the proviso to section 13 of the said Act[1], for the words "the area under the authority of such Local Board" the words "the sub-division for which such Local Board has been established" shall be substituted.

Amendment of section 17.

7. In section 17 of the said Act[1] for the words 'Lieutenant-Governor' and for the word 'Commissioner,' in both places in which they respectively occur, the word 'Commissioner' and the words 'District Board,' respectively shall be substituted.

Amendment of section 18.

8. (1) Section 18 of the said Act[1] shall be re-numbered section 18, sub-section (1).

(2) In the said sub-section (1),—

(i) for the words "Lieutenant-Governor," wherever they occur, the word "Commissioner" shall be substituted;

(ii) for the words "or Local Board" the words "Local Board or Union Committee" shall be substituted;

(iii) in clause (a), the words from "or is convicted" to the words "unfits him to be a member" are hereby repealed.

(3) To the said section the following shall be added, namely:—

"(2) Any member who is removed under sub-section (1) may appeal to the Lieutenant-Governor, whose decision shall be final."

New section 18A.

9. After section 18 of the said Act[1], the following shall be inserted, namely:—

18A. [Printed in Vol. II of this Code.]

New sections 19 and 19A.

10. For section 19 of the said Act[1], the following shall be substituted, namely:—

19, 19A. [Printed in Vol. II of this Code.]

Amendment of section 22.

11. In section 22 of the said Act[1], after the word 'elected' the words 'either by name or by virtue of his office' shall be inserted.

New section 23A.

12. After section 23 of the said Act[1], the following shall be inserted, namely:—

23A. [Printed in Vol. II of this Code.]

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[1] The Bengal Local Self-Government Act of 1885. It is printed in Vol. II of this Code.

(*Secs. 13-17*)

13. In section 25 of the said Act[1],— Amendment of section 25

(*a*) after the word "elected" the words "either by name or by virtue of his office" shall be inserted, and

(*b*) for the words "Lieutenant-Governor" in the first, second, fourth and fifth places in which they occur, the word "Commissioner" shall be substituted.

14. For section 26 of the said Act[1], the following shall be substituted, namely — New sections 26 and 26A

26, 26A [Printed in Vol II of this Code]

15. In section 27 of the said Act[1], for the words "to the Lieutenant-Governor, and, on such resignation being accepted," the following shall be substituted, namely — Amendment of section 27

"in the case of a Chairman of a District Board, to the Lieutenant-Governor, and, in the case of a Chairman of a Local Board, to the Commissioner, and, on such resignation being accepted by the Lieutenant Governor or Commissioner, as the case may be"

16. For section 29 of the said Act[1], the following shall be substituted namely — New sections 29 and 29A

29, 29A [Printed in Vol II of this Code]

17. In section 32 of the said Act[1],— Amendment of section 32

(*a*) for the words "Every District Board, and every Local Board with the sanction of the District Board," the following shall be substituted, namely —

"Any District Board, with the sanction of the Commissioner and subject to the control of the Lieutenant-Governor, and any Local Board, with the sanction of the District Board and of the Commissioner and subject to the control of the Lieutenant-Governor,"

(*b*) for the words "leave, suspension and removal," in clause (*g*), the words "leave, leave allowance and punishment (including suspension and removal)" shall be substituted,

(*c*) after the words "and may" the words "with the like sanction and subject to the like control" shall be inserted, and

(*d*) for the concluding paragraph the following shall be substituted, namely —

"All rules made under this section and all orders repealing or altering any such rules shall be published in such manner as the Lieutenant-Governor may direct, and, so far as they are consistent with this Act and with any rules made by the Lieutenant-Governor hereunder shall, upon such publication, have the force of law."

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[1] The Bengal Local Self Government Act of 1885 It is printed in Vol II of this Code

(*Secs. 18-26.*)

Amendment of section 33

18. In section 33 of the said Act[1], after the words and figures "under section 30" the following shall be inserted, namely —

"or by an Education Committee referred to in section 65B"

New section 35

19. For section 35 of the said Act[1], the following shall be substituted, namely —

35 [Printed in Vol. II of this Code]

New section 35A

20. After section 35 of the said Act[1], the following shall be inserted namely.—

35A [Printed in Vol II of this Code]

Amendment of section 36

21. In the proviso to section 36 of the said Act[1], for the words 'the Local Board to which the Union Committee creating such appointment is subordinate" the words "the District Board' shall be substituted

New section 41A

22. After section 41 of the said Act[1], the following shall be inserted namely —

41A [Printed in Vol II of this Code]

Amendment of section 44

23. In section 44 of the said Act[1], for the words "the Local Board to which it is subordinate as hereinafter provided," and for the words "the Local Board," the words "the District Board" shall be substituted

Addition to section 48

24. To section 48 of the said Act[1], the following shall be added, namely —

[Printed in Vol II of this Code]

Addition to section 50

25. To section 50 of the said Act[1], the following shall be added, namely —

[Printed in Vol II of this Code]

Amendment of section 52

26. (*1*) After clause (*1*) of section 52 of the said Act[1], the following shall be inserted, namely —

"(*1a*) all sums received under any loan raised under section 50"

(*2*) For clause (*3*) of the said section 52, the following shall be substituted, namely —

"(*3*) all sums directed by notification under section 31 of the Cattle-trespass Act, 1871, to be placed to the credit of the Fund."

(*3*) After clause (*5*) of the said section 52, the following shall be inserted, namely —

"(*5a*) all receipts accruing within the district from tolls or leases under Part III, heading D (*1*), of this Act"

(*4*) Before the final sentence of the said section 52, the following shall be inserted, namely —

"The balance of the District Road Fund mentioned in clause (*1*) of this section shall be placed to the credit of the District Fund under a separate head."

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[1] The Bengal Local Self Government Act of 1885 It is printed in Vol II of this Code

of 1908.]

(Secs. 27-33)

27. (*1*) In the first line of section 53 of the Bengal Local Self-Government Act of 1885[1], after the words "The District Fund shall" the following shall be inserted, namely:— Amendment of section 53

subject to the provisions of section 109 of the Cess Act, 1880, as amended by this Act."

(*2*) In clause *Fourthly* of the said section 53, after the figures "35", the following shall be inserted, namely:—

"and of any grants made for supplementing contributions by members of such establishments to any Provident Fund created under section 35A"

(*3*) For clause *Fifthly* of the same section, the following shall be substituted, namely:—

Fifthly—[Printed in Vol II of this Code]

(*4* ... ection, for the words "of the ... members of the District Board ... Board or meetings of a Joint ... be substituted, namely:—

(*a*) *to* (*d*) [Printed in Vol II of this Code]

(*5*) In proviso (*1*) to the said section 53, after the word "that" the words, figures and letter "except as is provided in section 99A" shall be inserted

(*6*) After proviso (*2*) to the said section 53, the following shall be inserted, namely:—

(*3*) [Printed in Vol II of this Code]

28. After section 53 of the Bengal Local Self-Government Act of 1885[1], the following shall be inserted, namely:— New section 53A

53A [Printed in Vol II of this Code]

29. For clause (*1*) of section 56 of the Bengal Local Self-Government Act of 1885[1], the following shall be substituted, namely:— Amendment of section 56

"(*1*) all sums directed by notification under section 31 of the Cattle-trespass Act, 1871 to be placed to the credit of the Fund"

30. In section 58 of the Bengal Local Self-Government Act of 1885[1], for the words "the Local Board to which such Union Committee is subordinate" the words "the District Board" shall be substituted Amendment of section 58

31. In section 59 of the said Act[2], for the letter "D" the letter "E" shall be substituted Amendment of section 59

32. In section 60 of the said Act[2], for the letter "E" the letter "F" shall be substituted Amendment of section 60

33. For section 61 of the said Act[2], the following shall be substituted, namely:— New section 61

61 [Printed in Vol II of this Code]

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[1] Printed in Vol II of this Code

[2] The Bengal Local Self-Government Act of 1885. It is printed in Vol II of this Code

(*Secs. 34-46*)

New section 63 **34.** For section 63 of the Bengal Local Self-Government Act of 1885[1], the following shall be substituted, namely :— Ben. Act 3 of 1885.

63 [Printed in Vol. II of this Code.]

New section 64A **35.** After section 64 of the said Act[2], the following shall be inserted, namely :—

64A [Printed in Vol. II of this Code.]

Amendment of section 65 **36.** In section 65 of the said Act[2], for the words "the improvement of primary schools within the district under private management," the following shall be substituted, namely :—

(*a*) *to* (*c*) [Printed in Vol. II of this Code.]

New sections 65A and 65B **37.** After section 65 of the said Act[2], the following shall be inserted, namely :—

65A, 65B [Printed in Vol. II of this Code.]

Addition to section 67 **38.** To section 67 of the Bengal Local Self-Government Act of 1885[1], the following shall be added, namely :— Ben. Act 3 of 1885.

[*Printed in Vol. II of this Code.*]

Amendment of section 73 **39.** In section 73 of the said Act[2], after the words "for the purposes of this Act" the words and figures "but subject to the provisions of Chapter III of Part III thereof" shall be inserted.

New section 78A **40.** After section 78 of the said Act[2], the following shall be inserted, namely :—

78A [Printed in Vol. II of this Code.]

Amendment of section 82 **41.** (*1*) In section 82 of the said Act[2], for the words "Lieutenant-Governor" the words "Governor General in Council" shall be substituted.

(*2*) To the same section the following shall be added, namely :—

[Printed in Vol. II of this Code.]

Addition to section 86 **42.** To section 86 of the said Act[2], the following shall be added, namely :—

[*Printed in Vol. II of this Code.*]

New heading and new sections 86A to 86M **43.** After section 86 of the said Act[2], the following shall be inserted, namely :—

"*D (1)—Tolls on Bridges.*

86A to 86M [Printed in Vol. II of this Code.]

New section 88A **44.** After section 88 of the said Act[2], the following shall be inserted, namely :—

88A [Printed in Vol. II of this Code.]

New section 91 **45.** For section 91 of the Bengal Local Self-Government Act of 1885[1], the following shall be substituted, namely :— Ben. Act 3 of 1885.

91 [Printed in Vol. II of this Code.]

Amendment of section 99 **46.** (*1*) In the heading over section 99 of the said Act[2], for the word "Relief" the words "and Distress" shall be substituted.

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[1] Printed in Vol. II of this Code.
[2] The Bengal Local Self-Government Act of 1885. It is printed in Vol. II of this Code.

(*Secs 47-51*)

(2) In the said section, after the word "famine" the words "or serious distress" shall be inserted

(3) To the said section the following shall be added, namely —

"(4) distribute such gratuitous relief, in the form of doles of money or food, as may be necessary"

47. After section 99 of the said Act[1], the following shall be inserted, namely — New section 99A

99A. [Printed in Vol II of this Code]

48. (1) In section 100 of the said Act[1], for the words "subject to any rules made by the Lieutenant-Governor," the words "subject to such rules and restrictions as the Lieutenant-Governor may, from time to time, prescribe" shall be substituted Amendment of section 100

(2) In clause (3) of the said section for the words "its," the word "the" shall be substituted

(3) After the said clause (3), the following shall be inserted, namely —

(3a) to (3d) [Printed in Vol II of this Code]

49. In section 104 of the said Act,[1] for the words "Local Board", in both places in which they occur, the words "District Board" shall be substituted Amendment of section 104

50. (1) In sections 105, 106 and 107 of the said Act[1], for the the words "Local Board", wherever they occur, the words "District Board" shall be substituted Amendment of sections 105 to 107

(2) In the said section 105, for the words "an estimate of the probable expenditure of the Committee, the words "an estimate of the probable receipts and expenditure of the Committee under each head of account" shall be substituted

(3) To the said section 105 the following shall be added, namely —

"Every estimate submitted under this section shall be subject to the sanction of the District Board, who may, before sanctioning any estimate, modify it as they may think fit"

(4) In the said section 107, after the words "village roads", the words "and bridges thereon" shall be inserted

51. (1) After the words "village-roads", in section 108 of the said Act[1], and where they first occur in section 109 thereof, the words "and bridges thereon" shall be inserted Amendment of sections 108 and 109

(2) In the said section 108, after the words "such roads" the words "and bridges" shall be inserted

(3) After the word "road", in clauses (c) and (d) of the said section 109, the words "or bridge thereon" shall be inserted.

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[1] The Bengal Local Self Government Act of 1885 It is printed in Vol II of this Code

(*Secs 52-59*)

Amendment of section 110

52. In section 110 of the said Act[1],—

(*a*) for the words "Local Board," in the first and third places in which they occur, the words "District Board" shall be substituted, and

(*b*) for the words "Local Board," in the second place in which they occur, the words "District Board or of a Local Board" shall be substituted

New section 111

53. For section 111 of the said Act[1], the following shall be substituted namely —

111 [Printed in Vol II of this Code]

New section 114

54. For section 114 of the said Bengal Local Self Government Act of 1885[2], the following shall be substituted, namely — Ben Act 3 of 1885

114 [Printed in Vol. II of this Code]

New sections 115 to 119

55. For section 115 to 119 of the said Act[1], the following shall be substituted, namely —

115 to 119 [Printed in Vol II of this Code]

Amendment of section 130

56. (*1*) In the first paragraph of section 130 of the said Act[1],—

(*a*) after the figures "124" the figures "125" shall be inserted, and

(*b*) for the words "by the Local Board" the words and figures "by the District Board or the Local Board to which the Committee may have been declared, by an order under section 119, to be, for the purposes of this section, subordinate" shall be substituted

(*2*) In the third paragraph of the same section, after the words "Local Board" the words "or Union Committee" shall be inserted

Amendment of section 131

57. In section 131 of the said Act[1], after the words "Local Board", in both places in which they occur, the words "or Union Committee" shall be inserted

Amendment of section 132

58. In section 132 of the said Act[1],—

(*1*) after the words "Local Board," in the first four places in which they occur, the words "or Union Committee" shall be inserted, and

(*2*) after the words "the Board", in the second place in which they occur, the words "or Committee" shall be inserted

New section 133

59. For section 133 and 134 of the said Act[1], the following shall be substituted, namely —

133 [Printed in Vol II of this Code]

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[1] The Bengal Local Self Government Act of 1885 It is printed in Vol II in this Code

[2] Printed in Vol II of this Code

(Sec 60)

Amendment of section 138

60. *(1)* To clause *(a)* of section 138 of the said Act[1], the following shall be added, namely —

"and determining the authority who shall decide disputes relating to such elections."

(2) In clause *(f)* of the same section for the word "immediate" the word "intermediate" shall be substituted

(3) To clause *(g)* of the same section, the following shall be added, namely —

"and declaring what circumstances shall be a disqualification for continuance of employment under that section"

(4) After clause *(h)* of the same section, the following shall be inserted, namely —

(h1) *(h2)* [Printed in Vol II of this Code]

(5) After clause *(j)* of the same section, the following shall be inserted, namely —

(j1) to *(j3)* [Printed in Vol II of this Code]

(6) To clause *(k)* of the said section 138, the following shall be added, namely —

"the training and employment of compounders, midwives and veterinary practitioners, and the promotion of free vaccination"

(7) To clause *(m)* of the same section, the following shall be added, namely —

"and prescribing conditions precedent to the making of any contribution under section 79"

(8) After clause *(m)* of the said section 138, the following shall be inserted, namely —

(m1), *(m2)* [Printed in Vol II of this Code]

(9) In clause *(n)* of the said section 138, after the words 'District Boards' the words 'and Sanitation Committees' shall be inserted

(10) After clause *(o)* of the said section 138, the following shall be inserted, namely —

"*(o1)* regulating the duties of District Boards in regard to the relief of famine, serious distress or scarcity."

(11) In clause *(p)* of the same section, after the word "animals," the following shall be inserted, namely —

"the establishment and maintenance of veterinary dispensaries, the appointment and payment of qualified persons to prevent and treat diseases of horses, cattle and other animals, the improvement of the breed of horses, cattle or asses, and the breeding of

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[1] The Bengal Local Self Government Act of 1885 It is printed in Vol II of this Code

mules, the making of grants-in-aid under clause (*3d*) of section 100 of this Act"

(*12*) After clause (*q*) of the same section, the following shall be inserted, namely —

(*q1*) [Printed in Vol II of this Code]

(*13*) To the same section the following shall be added, namely —

In making any rule under clause (*q1*) of this section, the Lieutenant-Governor may provide that a breach of the same shall be punished with fine which may extend to ten rupees"

Amendment of section 139

61. In section 139 of the said Act[1],—

(*a*) before the words "make by-laws" the words "subject to the control of the Lieutenant-Governor" shall be inserted, and

(*b*) for the words "confirmed by the Lieutenant-Governor" the words "confirmed by the Commissioner" shall be substituted

Amendment of section 142

62. In section 142 of the said Act[1], before the words "or Union Committee" the words "Local Board" shall be inserted

Amendment of section 144

63. To section 144 of the said Act[1], the following shall be added, namely —

Nothing in this section shall apply to the payment of fees to a legal practitioner for services rendered by him in his professional capacity"

Amendment of Schedule II

64. In the third column of the Second Schedule to the said Act[1], after the words "shall be credited to the District Fund of the district" the following shall be inserted, namely —

and shall be applicable to the following objects, and in the following order, namely —

(*a*) the payment of any sums which the District Board may, under the Bengal Local Self-Government Act of 1885, from time to time have undertaken to pay as interest on loans raised for expenditure on any of the objects to which the District Road Fund is applicable, and the repayment of such loans, Ben Act 3 of 1885

(*b*) the payment of the percentage referred to in clause *Thirdly* of section 53 of the said Act,

(*c*) the payment of such of the salaries, pensions, gratuities, grants and percentages referred to in clause *Fourthly* of the said section as are required for members of establishments employed for improving the means of communication within the district or between the district and other districts;

[1] The Bengal Local Self-Government Act of 1885 It is printed in Vol II of this Code

(*Sec* 64)

(*d*) the payment of such of the expenses referred to in clause *Fifthly* of section 53 of the said Act as are incurred in improving the means of communication within the district or between the district and other districts, or in carrying out the provisions of section 79 of the said Act,

(*e*) the payment of the expenses referred to in clause *Seventhly* of section 53 of the said Act, and

(*f*) the making of investments referred to in clause *Eighthly* of the said section 53"

mules, the making of grants-in-aid under clause (3d) of section 100 of this Act "

(12) After clause (q) of the same section, the following shall be inserted, namely —

(q1) [Printed in Vol II of this Code]

(13) To the same section the following shall be added, namely —

"In making any rule under clause (q1) of this section, the Lieutenant-Governor may provide that a breach of the same shall be punished with fine which may extend to ten rupees"

Amendment of section 139

61. In section 139 of the said Act[1], —

(a) before the words "make by-laws" the words "subject to the control of the Lieutenant-Governor" shall be inserted, and

(b) for the words "confirmed by the Lieutenant-Governor" the words "confirmed by the Commissioner" shall be substituted

Amendment of section 142

62. In section 142 of the said Act[1], before the words "or Union Committee" the words "Local Board" shall be inserted

Addition to section 144

63. To section 144 of the said Act[1], the following shall be added, namely —

Nothing in this section shall apply to the payment of fees to a legal practitioner for services rendered by him in his professional capacity"

Amendment of Schedule II

64. In the third column of the Second Schedule to the said Act[1], after the words "shall be credited to the District Fund of the district" the following shall be inserted, namely —

"and shall be applicable to the following objects, and in the following order, namely —

(a) the payment of any sums which the District Board may, under the Bengal Local Self-Government Act of 1885, from time to time have undertaken to pay as interest on loans raised for expenditure on any of the objects to which the District Road Fund is applicable, and the repayment of such loans, Ben Act 3 of 1885

(b) the payment of the percentage referred to in clause Thirdly of section 53 of the said Act;

(c) the payment of such of the salaries, pensions, gratuities, grants and percentages referred to in clause Fourthly of the said section as are required for members of establishments employed for improving the means of communication within the district or between the district and other districts;

[1] The Bengal Local Self Government Act of 1885 It is printed in Vol II of this Code

BENGAL ACT 2 OF 1909

[THE BENGAL COURT OF WARDS (AMENDMENT) ACT, 1909[1]].

(17th February, 1909.)

An Act further to amend the Court of Wards Act, 1879.[2]

Whereas it is expedient further to amend the Court of Wards Act, 1879[2]; It is hereby enacted as follows:—

1. This Act may be called the Bengal Court of Wards (Amendment) Act, 1909. Short title

2. At the end of section 50 of the Court of Wards Act, 1879[2]; the following shall be added, namely .— Amendment of Bengal Act 9 of 1879, section 50

"or mortgages on immovable property."

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[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons, *see* Calcutta Gazette, 1908, Part IV, p 247, for Proceedings in Council, *see ibid*, 1908, Part IVA, pp 252, 271, *see ibid*, 1909,

n originally to have
which the Court of
It is, therefore, in
Eastern Bengal by

[2] Printed in Vol II of this Code

BENGAL ACT 5 OF 1909

(THE BENGAL EXCISE ACT, 1909)

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BENGAL ACT V OF 1909

(THE BENGAL EXCISE ACT, 1909)[1]

(The 8th September, 1909.)

An Act to consolidate and amend the Excise Law in Bengal.

Whereas it is expedient to consolidate and amend the law in Bengal relating to the import, export, transport, manufacture, possession and sale of [2][alcoholic liquor] and intoxicating drugs;

AND whereas the Acts mentioned in Part I of the Schedule having been passed by the Governor General of India in Council, the previous sanction of the Governor General has been obtained, under section 5[3] of the Indian Councils Act, 1892, to the passing of this Act;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

Short title extent and commencement.

1. *(1)* This Act may be called the Bengal Excise Act, 1909;

(2) It extends to the whole of Bengal; and

(3) It shall come into force on such date[4] as the Local Government may, by notification, direct.

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lcutta Gazette, 1909, Pt
Proceedings in Council,

to the territories then
sidency of Fort William
as a result of the Bengal
tern Bengal also, see s. 3

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... p. 935
... I, 1913, p. 801

[4] The 1st December, 1909—see Calcutta Gazette, 1909, Pt. I, p. 1710

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "beer" includes ale, stout, porter and all other fermented liquor made from malt;

[1][(1A) "Bengal" means the Presidency of Fort William in Bengal;]

[2] * * * * *

(3) "to bottle" means to transfer liquor from a cask or other vessel to a bottle or other receptacle for the purpose of sale, whether any process of rectification be employed or not, and includes re-bottling;

(4) "Calcutta district" means—

(a) the area within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal,

(b) the Suburbs of Calcutta, as for the time being defined by notification published under section 1 of the Calcutta Suburban Police Act, 1866[3], and the Municipalities of Howrah and Bally, or such part of those areas as the Local Government may, by notification, direct, or, if the Local Government by notification so directs, no part of any of those areas, and — Ben. Act 2 of 1866

(c) any other areas, in the vicinity of those referred to in sub-clauses (a) and (b), which the Local Government may, by notification[4], declare to be included in the "Calcutta district";

[5][(4A) "cocaine" includes—

(i) coca leaves,

(ii) alkaloids of coca,

(iii) every drink or substance prepared from the coca plant (*Erythroxylum coca*),

(iv) every drug, synthetic or other, having a like physiological effect to that of cocaine, and

(v) every preparation or admixture of any article hereinbefore mentioned;]

(5) "Collector" means—

(i) in the Calcutta district, the person appointed under section 7, clause (b), to exercise all the powers and to perform all the duties of the Collector in that district, and

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[1] This clause (1A) was inserted by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. [illegible]

[illegible]

[5] This clause (4A) was inserted by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. 6 (2), post p. [illegible]

(*Chapter I—Preliminary—Sec. 2.*)

(*ii*) elsewhere, the chief officer in charge of the revenue administration of a district;

[1] [(6) 'denaturant' means any substance prescribed by rule made in this behalf under clause (3) of section 86, for admixture with spirit in order to render the mixture unfit for human consumption, whether as a beverage, or internally as a medicine, or in any other way whatsoever;

[1](6a) to "denature" means to mix spirit with one or more denaturants in such manner as may be prescribed by rule made in this behalf under clause (3) of section 86, and "denatured spirit" means spirit so mixed;]

(7) "excisable article" means any liquor or intoxicating drug as defined by or under this Act;

(8) "Excise Commissioner" means the officer appointed under section 7, clause (*a*);

(9) "Excise Officer" means the Collector or any officer or other person appointed or invested with powers under section 7;

(10) "excise-revenue" means revenue derived or derivable from any duty, fee, tax, payment (other than a fine imposed by a Criminal Court) or confiscation imposed or ordered under this Act or any other law for the time being in force relating to liquor or intoxicating drugs;

(11) "export" means to take out of Bengal;

(12) "*import*" *means to bring into Bengal*;

(13) "intoxicating drug" means—

(i) *ganja*, *bhang* or *siddhi*, *charas* and every preparation of the hemp plant (*Cannabis sativa*),

(ii) every admixture of, and every [2] * * drink made from, any article referred to in sub-clause (i) of this clause, * * [3]

[4][(iia) cocaine, and]

(iii) any other [2] * * drink or substance which the Local Government may specify in this behalf by notification, with every preparation or admixture of the same,

but does not include opium or anything which is included in "opium" as defined in the Opium Act, 1878[5] 1 of 1878

... he Bengal Excise ... s repealed by the ... l Excise (Amend ... 1914 (Ben Act 7 [illegible]

[5] Printed in the General Acts, 1868-78, Ed 1909, p 660

(14) "liquor" means [1][liquid consisting of or containing alcohol,] and includes spirits of wine, spirit, wine, *tari*, *pachwai*, beer, [2]* * * * and any substance which the Local Government may, by notification, declare to be liquor for the purposes of this Act;

(15) "manufacture" includes—

(I) every process, whether natural or artificial, by which any exciseable article is produced or prepared (including the tapping of *tari*-producing trees and the drawing of *tari* from trees),

(II) re-distillation, and

(III) every process for the rectification, flavouring, blending or colouring of liquor,[3] [or for the reduction of liquor for sale;]

(16) "*pachwai*" means fermented rice, millet or other grain, whether mixed with any liquid or not, and any liquid obtained therefrom, whether diluted or undiluted; but does not include beer,

(17) "place" includes building, house, shop, booth, vessel, raft,[4] [vehicle] and tent,

(18) expressions referring to "sale" include any transfer otherwise than by way of gift,

(19) "spirit" means any liquor containing alcohol obtained by distillation, whether it is denatured or not,

(20) "*tari*" means fermented or unfermented juice drawn from any cocoanut, palmyra, date or other kind of palm tree, and

(21) "transport" means to remove from one place to another within Bengal

Provision supplemental to the definition of intoxicating drug

3. The Local Government may, by notification[5], declare what shall be deemed to be *ganja*, *bhang* or *siddhi*, or *charas*

Power to declare what shall be deemed to be country liquor and foreign liquor respectively

4. The Local Government, with the previous sanction of the Government of India, may, by notification[6], declare what, for the purposes of this Act or any portion thereof, shall be deemed to be "country liquor" and "foreign liquor", respectively

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(Ben Act 7 of 1914) s 6 (7) *post* p 936

30th

30th

of 1909.]

(Chapter I.—Preliminary.—Chapter II.—Establishments, Control, Appeal and Revision.—Secs. 5-7.)

5. (*1*) The [1][Local Government] may, by notification[2], declare, with respect either to the whole of Bengal or to any specified local area, and as regards purchasers generally or any specified class of purchasers, and either generally or for any specified occasion, what quantity of any excisable article shall, for the purposes of this Act, be the limit of a retail sale. *Definition of retail and wholesale.*

(*2*) The sale of any excisable article in any quantity in excess of the quantity declared in respect thereof under sub-section (*1*) shall be deemed to be a sale by wholesale.

6. (*1*) Nothing contained in this Act shall affect the provisions of— *Saving of certain Acts.*

(*a*) the Calcutta Suburban Police Act, 1866[3], or

(*b*) the Calcutta Police Act, 1866[3], or

(*c*) the Sea Customs Act, 1878[4], or

(*d*) the Cantonments Act, 1889[5], or

(*e*) the Indian Tariff Act, 1894[6] (except section 6 thereof).

(*2*) All references to Act 21 of 1856 in the said Calcutta Suburban Police Act, 1866[3], and all references to Act 11 of 1849 in the said Calcutta Police Act, 1866[3], shall be construed as references to this Act.

CHAPTER II

ESTABLISHMENTS, CONTROL, APPEAL AND REVISION

7. (*1*) The administration of the Excise Department and the collection of the excise-revenue within a district shall ordinarily be under the charge of the Collector. *Establishments and delegation and withdrawal of powers.*

(*2*) The Local Government may, by notification[1] applicable to the whole of Bengal or to any specified local area,—

(*a*) appoint an officer who shall, subject to such control as the Local Government may direct, have the control of the administration of the Excise Department and the collection of the excise-revenue;

[illegible] ... ed "Board ... by ... [illegible]

[illegible] ... S. R., dated the ... [illegible]

[5] Act XIII of 1889 has been repealed and re-enacted by the Cantonments Act, 1910 (15 of 1910), printed in the General Acts, Vol. VII (1909-1913), p. 77, and this reference shall now be [illegible] ... 7 (10 of 1894) [illegible]

[illegible] ... fication No. [illegible] S. R., [illegible] Pt. I, p. [illegible]

(*b*) appoint any person to exercise all or any of the powers and to perform all or any of the duties, conferred and imposed on a Collector by or under this Act, either concurrently with, or in subordination to, or to the exclusion of, the Collector, and subject to such control as the Local Government may direct,

(*c*) appoint officers of the Excise Department, of such classes and with such designations, powers and duties, as the Local Government may think fit,

(*d*) order that all or any of the powers and duties assigned by or under this Act to any officer appointed under clause (*c*) of this section shall be exercised and performed by any Government officer or any other person,

(*e*) delegate to[1] * * the Commissioner of a Division or the Excise Commissioner all or any of the powers conferred upon the Local Government by or under this Act, except the power conferred by section 85 to make rules,

(*f*) withdraw from any officer or person all or any of the powers or duties conferred or imposed upon him by or under this Act, and

(*g*) permit the delegation by[1] * * the Commissioner of a Division, the Excise Commissioner or the Collector, to any persons or classes of persons specified in such notification, of any powers conferred or duties imposed upon[2] * * him by or under this Act

Control appeal and revision

8. (*1*) The Collector shall, in all proceedings under this Act, be subject to the control of the Excise Commissioner, and shall, in such matters as the Local Government may direct, be subject also to the control of the Commissioner of the Division.

(*2*) Orders passed under this Act or under any rule made hereunder shall be appealable in such cases, to such authorities and under such procedure as may be prescribed by rule made under section 85, clause (*c*)

(*3*) The [3] [Local Government] may revise any order passed by a Collector, the Excise Commissioner or the Commissioner of a Division

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1e word Board by the Bengal Excise (Amendment) Act, 1914 (Ben Act 7 of 1914), s 5 (2), *post*, p 936

CHAPTER III

IMPORT, EXPORT AND TRANSPORT

9. (1) No excisable article shall be imported unless— Restrictions on import

(a) the Local Government has given permission either general or special, for its import,

(b) such conditions (if any) as the Local Government may impose have been satisfied, and

(c) the duty (if any) imposed under section 27 has been paid or a bond has been executed for the payment thereof

(2) Sub-section (1) shall not apply to any article which has been imported into British India [1] [if—

(i) the duty (if any) imposed on such importation under the Indian Tariff Act 1894 [2] or the Sea Customs Act, 1878 [3], has been paid, or

(ii) a bond has been executed for the payment of such duty]

(3) Clauses (a) and (b) of sub-section (1) shall not apply to liquor manufactured in British India and declared under section 4 to be foreign liquor,

10. No excisable article shall be exported or transported unless— Restriction on export or transport

(a) the duty (if any) imposed under section 27 or

(b) if the article was previously imported the duty (if any) imposed on its importation under the Indian Tariff Act, 1894[2], or the Sea Customs Act 1878 [3],

has been paid or a bond has been executed for the payment thereof

Provided that the [4] [Local Government] may, subject to such conditions (if any) as it thinks fit to impose exempt [5] any excisable article from the provisions of this section

11. The Local Government may, by notification [6],—

(a) with the previous sanction of the Government of India prohibit the import or export of any excisable article into or from Bengal or any part thereof, or Power to prohibit import export or transport

(b) prohibit the transport of any excisable article

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Passes for import, export or transport.

12. *(1)* No excisable article exceeding such quantity as the Local Government may prescribe by notification[1] either generally or for any specified local area, shall be imported, exported, or transported, except under a pass:

Provided that, in the case of duty-paid foreign liquor other than denatured spirit, such passes shall be dispensed with unless the Local Government, by notification, otherwise directs with respect to any local area.

(2) The passes required by sub-section *(1)* may be granted by the Collector.

(3) Such passes may be either general for definite periods and particular kinds of excisable articles or special for specified occasions and particular consignments only.

CHAPTER IV.

MANUFACTURE, POSSESSION AND SALE.

License required for manufacture.

13. *(a)* No excisable article shall be manufactured,

(b) no hemp plant (*Cannabis sativa*) shall be cultivated,

(c) no portion of the hemp plant (*Cannabis sativa*) from which an intoxicating drug can be manufactured or produced shall be collected,

(d) no liquor shall be bottled for sale,

(e) no distillery or brewery shall be worked, and

(f) no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any excisable article other than *tari*,

except under the authority and subject to the terms and conditions of a license granted in that behalf by the Collector:

Provided that any *tari*-producing tree may be tapped, and *tari* may be drawn from any tree, without a license under this section, by the person in possession of the tree,—

(i) for the purpose of being used in the manufacture of *gur* or molasses, or

[2][*(ia)* for the purpose of being used solely for the preparation of food for domestic consumption and not—

(I) as an intoxicant, or

(II) for the preparation of any intoxicating article, or

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[1] For a notification issued under s. 12 *(1)* *see* paragraph 19 of Notification No. 596 S. R., dated the 30th March 1915 published in the Calcutta Gazette of the 31st idem, Pt. I, p. 572.

[2] This proviso *(ia)* in s. 13 was inserted by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. 8, *post*, p. 837.

(iii) for the preparation of any article for sale, or]

(ii) up to a limit of four seers, for the domestic consumption of the said person.

14. (1) Notwithstanding anything contained in the proviso to section 13,—

Drawing of *tari* in notified areas.

(a) no *tari*-producing tree shall be tapped, and

(b) no *tari* shall be drawn from any tree,

in any local area specified in this behalf by the Local Government by notification, except under the authority and subject to the terms and conditions of a license granted in that behalf by the Collector.

(2) Provided that, when any exclusive privilege of manufacturing *tari* has been granted under section 22, the Local Government may declare that the written permission given by the grantee to draw *tari* shall have the same force and effect as a license granted by the Collector under sub-section (1) of this section.

(3) Provided also that, in any local area specified by notification under sub-section (1), the Local Government may, by notification, declare that that sub-section shall not apply to trees tapped or *tari* drawn under such special conditions as the [1] [Excise Commissioner] may prescribe.

15. (1) The Excise Commissioner may,—

Establishment of distilleries, breweries or warehouses.

(a) subject to any restrictions imposed by the Local Government, establish, or authorize the establishment of distilleries or breweries, in which liquor may be manufactured under a license granted under section 13,

(b) discontinue any such distillery or brewery;

(c) establish or authorize the establishment of, warehouses, wherein any exciseable article may be deposited and kept without payment of duty, and

(d) discontinue any such warehouse.

(2) No distillery, brewery or warehouse as aforesaid shall be established except by, or under the authority of, the Excise Commissioner.

16. No person shall, except under the authority and subject to the terms and conditions of a license granted in that behalf by the Collector, deposit or keep any excisable article in any warehouse or other place of storage established, authorized or continued under this Act.

License required for depositing or keeping excisable article in warehouse or other place of storage.

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[1] The words 'Excise Commissioner' in s. 14 (3) were substituted for the word 'Board' by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. 5 (3), *post*, p. 936.

(*Chapter IV.—Manufacture, Possession and Sale.— Secs. 17-18.*)

Payment of duty on removal from distillery, brewery, warehouse or other place of storage.

17. No excisable article shall be removed from any distillery, brewery, warehouse or other place of storage licensed, established, authorized or continued under this Act, unless the duty (if any) imposed under section 27 has been paid or a bond has been executed for the payment thereof.

Possession of excisable articles not obtained from a licensed vendor.

18. (*1*) No person shall have in his possession any excisable article which has not been obtained from a licensed vendor of the same.

(2) Sub-section (*1*) shall not apply to—

(*a*) any excisable article lawfully deposited or kept in a distillery, brewery, warehouse or other place of storage licensed, established, authorized or continued under this Act; or

(*b*) any excisable article lawfully in the possession of a licensed vendor of the same; or

(*c*) any excisable article in the possession of a person who has lawfully imported it or who is authorized by the Collector to possess it; or

(*d*) any foreign liquor in the possession of any common carrier or warehouseman as such, or purchased at a sale authorized by clause (*a*) of proviso (*3*) to section 20; or

(*e*) *tari* intended to be used in the manufacture of *gur* or molasses; or

(*f*) *tari* intended to be used in the manufacture of bread by a person holding a permit to use *tari* for that purpose; or

[1][(*ff*) *tari* intended to be used solely for the preparation of food for domestic consumption and not—

(*i*) as an intoxicant, or

(*ii*) for the preparation of any intoxicating article, or

(*iii*) for the preparation of any article for sale; or]

(*g*) *tari* up to a limit of four seers, when in the possession of the person possessing the tree from which it was drawn and intended to be used for his domestic consumption; or

(*h*) intoxicating drugs in the possession of any person licensed to cultivate or collect the plants from which such drugs were produced, when such possession is in accordance with the conditions of his license.

[1] This clause (*ff*) in s. 18 was inserted by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. 9, *post*, p. 937.

Possession of excisable articles generally

19. (*1*) No person not being licensed to manufacture, cultivate, collect or sell any excisable article shall have in his possession any quantity of any excisable article in excess of such quantity as the [1] [Local Government] has, under section 5, declared to be the limit of a retail sale, except under a permit granted by the Collector in that behalf

(*2*) Sub-section (*1*) shall not apply to—

(*a*) any foreign liquor (other than denatured spirit) which is in the possession of any common carrier or warehouseman as such, or

(*b*) any foreign liquor which has been purchased by any person for his *bona fide* private consumption and not for sale, or

(*c*) *tari* intended to be used in the manufacture of *gur* or molasses,[2]

[3] [(*d*) *tari* intended to be used solely for the preparation of food for domestic consumption, and not—

(*i*) as an intoxicant, or

(*ii*) for the preparation of any intoxicating article, or

(*iii*) for the preparation of any article for sale]

(*3*) A licensed vendor shall not have in his possession at any place other than that authorized by his license any quantity of any excisable article in excess of such quantity as the [1] [Local Government] has, under section 5, declared to be the limit of a retail sale, except under a permit granted by the Collector in that behalf.

(*4*) Notwithstanding anything contained in the foregoing sub-sections, the Local Government may, by notification[4], prohibit the possession by any person or class of persons, either in Bengal or in any specified local area, of any excisable article either absolutely, or subject to such conditions as it may prescribe

License required for sale

20. No excisable article, and no portion of the hemp plant (*Cannabis sativa*) from which an intoxicating drug can be manufactured or produced, shall be sold except under the authority and subject to the terms and conditions of a license granted in that behalf by the Collector

Provided as follows —

(*1*) a license for sale in more than one district shall be granted only by the Excise Commissioner [5] [or by a

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[1] The words Local Government in sub sections (*1*) and (*3*) of s 19 were substituted for the word 'Board by the Bengal Excise (Amendment) Act, 1914 (Ben Act 7 of 1914), s. 5 (*2*), *post* p. 936

[2] *Insert* ' or

[3] This clause (*d*) in s 19 was inserted by the Bengal Excise (Amendment) Act, 1914 (Ben Act 7 of 1914) s 10 post p 937

Collector specially authorized in that behalf by the Excise Commissioner;]

[1][(1a) a license for sale granted under the Excise law in force in any other Province may, on such conditions as may be determined by the Excise Commissioner, be deemed to be a license granted under this Act;]

(2) a cultivator or owner of any hemp plant (*Cannabis sativa*) may sell, without a license, those portions of the plant from which an intoxicating drug can be manufactured or produced, to any person licensed under this Act to deal in the same, or to any officer whom the Excise Commissioner may authorize to purchase or receive the same:

(3) no license shall be required for any of the following sales, namely:—

(a) the sale of foreign liquor lawfully procured by any person for his private use—when such sale is made by such person himself or on his behalf upon his quitting a station, or on behalf of his representatives in interest after his decease;

(b) the sale of *tari* [2][lawfully possessed] by a person in possession of the tree from which it was drawn, to a person licensed under this Act to manufacture or sell *tari*;

(c) the sale of *tari* [3][lawfully possessed and] intended to be used in the manufacture of *gur* or molasses; or

(d) the sale of *tari* [3][lawfully possessed and] intended to be used in the manufacture of bread to a person holding a permit to use *tari* for the purpose of making bread; [4][or

(e) the sale of *tari* lawfully possessed and intended to be used solely for the preparation of food for domestic consumption and not—

(i) as an intoxicant, or

(ii) for the preparation of any intoxicating article, or

(iii) for the preparation of any article for sale.]

Manufacture and sale of liquor in or near cantonments.

21. Within the limits of any military cantonment, and within such distance from those limits as the Local Government may in any case prescribe[5], no license for the

[1] This proviso (1a) was [illegible] Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. 11 (c), post p. 937.

[2] [illegible] inserted in proviso (3) (b) of s. 20 by the Bengal [illegible]

[3] [illegible] inserted in proviso (3) (c) and (d) of s. 20 by [illegible] Act 7 of 1914), s. 11 (d), post p. 937.

[4] [illegible] (3) of s. 20 were added by the Bengal Excise [illegible] 1914), s. 11 (e), post p. 937.

[5] [illegible] prescribed under s. 21 see paragraph 25 of Notification No. 596 S. R., dated the [illegible] March, 1915 published in the Calcutta Gazette of the 31st idem, Pt. I, p. 574.

of 1909.]

(Chapter IV—Manufacture, Possession and Sale—Secs. 22-25.)

manufacture or sale of liquor shall be granted, except with the previous consent of the Commanding Officer.

22. (*1*) The Local Government may grant to any person, on such conditions and for such period as it may think fit, the exclusive privilege—

Grant of exclusive privilege of manufacture and sale of country liquor or intoxicating drugs.

(*a*) of manufacturing, or supplying by wholesale, or
(*b*) of manufacturing, and supplying by wholesale, or
(*c*) of selling, by wholesale or retail, or
(*d*) of manufacturing or supplying by wholesale, and selling retail, or
(*e*) of manufacturing and supplying by wholesale and selling retail,

any country liquor or intoxicating drug within any specified local area.

Provided that public notice shall be given of the intention to grant any such exclusive privilege and that any objections made by any person residing within the area affected shall be considered before an exclusive privilege is granted.

(*2*) No grantee of any privilege under sub-section (*1*) shall exercise the same unless or until he has received a license in that behalf from the Collector[1] [or the Excise Commissioner.]

23. (*1*) A grantee of an exclusive privilege under section 22 shall not let or assign the same or any portion thereof unless he is expressly authorized by a condition made under that section, to do so.

Transfer of exclusive privilege.

(*2*) Such
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extends to n

(*3*) The lessee or assignee shall not exercise any rights as such unless and until the Collector has, upon his application, granted him a license to do so.

24. Every person who manufactures or sells any excisable article under a license granted under this Act—

Maintenance and use of measures, weights and instruments by licensed manufacturers and vendors.

(*a*) shall supply himself with such measures, weights and instruments as the Excise Commissioner may prescribe[2], and shall keep the same in good condition, and
(*b*) when such measures, weights and instruments have been so prescribed, shall, on the requisition of any Excise Officer duly empowered by the Collector in this behalf, measure, weigh or test any excisable article in his possession, at such time and in such manner as such officer may require.

25. (*1*) No person who is licensed to sell foreign liquor or country spirit for consumption on his premises shall

Employment of children or women by licensed vendors.

during the hours in which such premises are kept open for business,

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[1] The words "or the Excise Commissioner" in s. 22 (2) were added by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. 12, *post*, p. 937.
[2] For an order issued under s. 24(*a*), *see* Calcutta Gazette, 1915, Pt. I, p. 469.

employ or permit to be employed, either with or without remuneration, any child under the age of fourteen years,
in any part of such premises in which such liquor or spirit is consumed by the public

(2) No person who is licensed to sell foreign liquor for consumption on his premises shall, without the previous written permission of the [1][Excise Commissioner,]

during the hours in which such premises are kept open for business

employ or permit to be employed, either with or without remuneration any woman,
in any part of such premises in which such liquor is consumed by the public

(3) The Local Government may, by notification, declare that sub-section (2) shall apply also, in any specified area, to *persons licensed to sell country spirit for consumption on their* premises

(4) Every permission granted under sub-section (2) shall be endorsed on the license, and may be modified or withdrawn

Power to close shops temporarily

26. (*1*) The District Magistrate or a Sub-divisional Magistrate, or (in Calcutta) the Chief Presidency Magistrate or the Commissioner of Police, may, by notice in writing to the licensee, require that any shop in which any excisable article is sold shall be closed at such times or for such period as such Magistrate or Commissioner of Police may think necessary for the preservation of the public peace

(*2*) If any riot or unlawful assembly is apprehended or occurs in the vicinity of any shop in which any excisable article is sold, any Magistrate or any Police Officer above the rank of constable, who is [illegible] shop to be kept closed for such period [illegible]

(*3*) When any Magistrate [illegible] direction under sub-section (*1*) or sub-section (*2*), he shall forthwith inform the Collector of his action and his reason therefor.

CHAPTER V

DUTY.

Power to impose duty on import export transport and manufacture

27. (*1*) A duty, at such rate or rates as the Local Government may direct[2] may be imposed, either generally or for any specified local area, on—

(*a*) any excisable article imported, or

(*b*) any excisable article exported, or

[illegible] by the

[illegible] ed the

(c) any excisable article transported, or

(d) any excisable article (other than *tari*) manufactured under any license granted in respect of clause (*a*) of section 13, or

(e) any hemp plant (*Cannabis sativa*) cultivated, or any portion of such plant collected, under any license granted in respect of clause (*b*) or clause (*c*) of section 13, or

(*f*) any excisable article manufactured in any distillery or brewery licensed, established, authorized or continued under this Act.

Explanation—Duty may be imposed on any article under this sub section at different rates according to the places to which such article is to be removed for consumption or according to the varying strengths and quality of such article

(2) A duty, at such rate or rates as the Local Government may direct, may be imposed either generally or for any specified local area, on any *tari* drawn under any license granted under section 14, sub-section (*1*)

(3) Notwithstanding anything contained in sub-section (*1*),—

(*i*) duty shall not be imposed thereunder on any article which has been imported into British India [1] [if—

(i) the duty (if any) imposed on such importation under the Indian Tariff Act, 1894[2], or the Sea Customs Act, 1878 [3], has been paid, or

(ii) a bond has been executed for the payment of such duty,] and

(*ii*) any duty imposed thereunder on beer or denatured spirit manufactured in India shall, unless the Local Government, with the previous sanction of the Government of India, otherwise directs, be equal to the duty to which beer or denatured spirit, as the case may be, when imported into British India by sea, is liable under the Indian Tariff Act 1894 [2], or the Sea Customs Act, 1878[3]

28. Subject to any rules made under section 86, clause (*12*), any duty imposed under section 27 may be levied in any of the following ways — Ways of levying such duty

(*a*) on an excisable article imported, —

(i) by payment (upon or before importation) in Bengal or in the province or territory from which the article is brought, or

the words and was liable on such he Sea Customs Act, 1878 by the 7, *post*, p 936

(Chapter V.—Duty.—Sec. 28.)

(ii) by payment upon issue for sale from a warehouse established, authorized or continued under this Act;

(*b*) on an excisable article exported,—

by payment in Bengal or in the province or territory to which the article is sent;

(*c*) on an excisable article transported,—

(i) by payment in the district from which the article is sent or

(ii) by payment upon issue for sale from a warehouse established, authorized or continued under this Act;

(*d*) on intoxicating drugs manufactured, cultivated or collected,—

(i) by a rate charged upon the quantity manufactured under a license granted in respect of the provisions of section 13, clause (*a*), or issued for sale from a warehouse established, authorized or continued under this Act, or

(ii) by[1] [a rate assessed on the area covered by, or on the quantity or outturn of, the crop cultivated or collected under,] a license granted in respect of the provisions of section 13, clause (*b*) or clause (*c*);

(*e*) on spirit or beer manufactured in any distillery or brewery licensed, established, authorized or continued under this Act,—

(i) by a rate charged upon the quantity produced in or issued from the distillery or brewery, as the case may be, or issued for sale from a warehouse established, authorized or continued under this Act, or

(ii) in accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as the Local Government may prescribe; and

(*f*) on *tari* drawn under a license granted under section 14, sub-section (*1*),—by a tax on each tree from which the drawing of *tari* is permitted

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[1] These words in square brackets in sub-clause (ii) of clause (*d*) of s 28 were substituted for the words "an acreage rate levied on the cultivation or collection of the hemp plant (*Cannabis sativa*) under" by the Bengal Excise (Amendment) Act, 1914 (Ben Act 7 of 1914) s 13, *post*, p 937

(Chapter V.—Duty—Chapter VI.—Licenses, Permits and Passes.—Secs. 29-31)

Provided that, where payment is made upon the issue of an excisable article for sale from a warehouse, it shall be at the rate of duty in force on the date of issue of such article from such warehouse.

Provided also that no tax shall be levied in respect of any tree from which *tari* is drawn only for the manufacture of *gur* or molasses and under such special conditions as the [1][Excise Commissioner] may prescribe

29. Instead of, or in addition to, any duty leviable under this Act, the Local Government may accept payment of a sum in consideration of the grant of any exclusive privilege under section 22. Payment for grant of exclusive privilege

CHAPTER VI

LICENSES, PERMITS AND PASSES

30. Before the expiration of every period for which existing licenses for the retail sale of spirit are in force, the Collector shall prepare a list, in a form prescribed[2] by the [1][Excise Commissioner,] showing what licenses it is proposed to grant for the retail sale of spirit for consumption on the vendors' premises, for the next period of settlement. Preparation of list of places for which it is proposed to grant licenses for the retail sale of spirit

31. (*1*) The Collector shall— Publication of such list

(*a*) cause to be conspicuously affixed upon the site of each shop referred to in the said list a notice to the effect that it is proposed to grant a license for the retail sale of spirit thereat or in the vicinity, for the next period of settlement

(*b*) if any site referred to in the said list is not at the time used for the retail sale of spirit, cause a notice, to the effect that it is proposed to grant a license for the retail sale of spirit thereat, or in the vicinity, for the next period of settlement to be proclaimed in the locality by beat of drum,

(*c*) send to the Chairman of each Municipality an extract reproducing so much of the said list as relates to shops in the Municipality, and

(*d*) cause the said list, or any portion thereof, to be published in such other methods (if any) as may be prescribed by rule made under section 85, clause (*j*)

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[1] The words 'Excise Commissioner' in sections 28 (second proviso) and 30 were substituted for the word 'Board' by the Bengal Excise (Amendment) Act 1914 (Ben Act 7 of 1914), s 5 (3) *post*, p 36

[2] For reference to a form prescribed under s 30 for Bengal as constituted on the 31st March, 1912, *see* the Bengal Local Statutory Rules and Orders 1912 Vol I, Pt VI

(2) When an extract is sent to the Chairman of any Municipality under clause (c) of sub-section (1), he shall—

(i) cause a copy of the extract to be conspicuously affixed at the central office of the Municipality; and

(ii) send to each member of each Ward Committee (if any) a copy of so much of the extract as relates to shops situated in his Ward.

Time for preparation and publication of such list.

32. The list mentioned in section 30 shall be prepared, and shall be published under section 31, at such time as may be prescribed by rule made in this behalf under section 85, clause (j).

Submission of objections and opinions to Collector.

33. (1) Objections to any proposal contained in any list prepared under section 30 may be received, at any time prior to the date prescribed by rule made in this behalf under section 85, clause (j), from—

(a) persons paying municipal rates and residing in any Municipality to which such proposal relates, or (if any such Municipality is divided into Wards) in the Ward to which such proposal relates or in any Ward adjoining such Ward; or

(b) in the case of shops not situated in any Municipality persons owning or occupying land, or residing, in the vicinity of the shop to which such proposal relates; or

(c) the District Magistrate.

(2) Such objections must be submitted to the Collector, or in any Municipality either to the Chairman of the Municipality or to the Collector.

(3) Every Chairman of a Municipality to whom an extract has been sent under section 31, clause (c), shall send to the Collector, by a date prescribed by rule made in this behalf under section 85, clause (j),—

(i) all objections (if any) to proposals contained in the extract which may be received by the Chairman, from persons paying municipal rates, before that date; and

(ii) any opinion which the Chairman or the Municipal Commissioners may wish to record on the said proposals.

Grant of licenses by Collector and submission of list, objections and opinions to Excise Commissioner.

34. (1) After the date prescribed for the receipt of objections and opinions submitted under section 33, the Collector shall consider the same and shall, if necessary, revise the said list, and shall decide for what places licenses for the retail sale of spirit shall be granted, and may, in his discretion, grant licenses accordingly.

of 1909.]

(Chapter VI —Licenses Permits and Passes —Secs 35-37)

(2) The Collector shall then forthwith submit the said list as so revised, and the said objections and opinions, and his own opinion,—

(a) in the case of shops outside the Calcutta district, to the Commissioner of the Division, for transmission to the Excise Commissioner, and

(b) in the case of shops in the Calcutta district, to the Excise Commissioner

(3) The Commissioner of the Division shall consider the list, objections and opinions so sent to him, and shall forward them, with his own opinion and recommendations if any, to the Excise Commissioner

Finality of decision of Excise Commissioner or Local Government

35. The Excise Commissioner shall consider the list, objections and opinions so sent to him, and may modify or annul any order passed or license granted by the Collector, and, notwithstanding anything contained in section 8, his orders shall be final

Provided that, if there be any difference of opinion between—

(a) the Excise Commissioner, and

(b) the Commissioner of a Division, the Chairman of the Corporation of Calcutta or the Corporation of Calcutta (if the opinion of the Municipal Commissioners of Calcutta, referred to in sub clause (ii) of section 33, has been recorded at a meeting of the *Corporation*),

the matter shall be referred by the Excise Commissioner to the [1][Local Government,] whose decision shall be final

Application of sections 30 to 35 to licenses for retail sale of excisable articles other than spirit

36. The provisions of sections 30 to 35 as to licenses for the retail sale of spirit shall apply also in respect of licenses for the retail sale, in any local area specified in any order made by the [1][Local Government] in this behalf, of any other excisable article specified in such order

Exemption of certain licenses from sections 30 to 36

37. Sections 30 to 36 shall not apply in the case of any license which it is proposed to grant—

(a) to any person, for the retail sale of any excisable article during any period not exceeding six months, or

(b) to any person, for the retail sale of any denatured spirit or

(c) to any person, for the retail sale of any excisable article, in substitution for a license which has been cancelled or surrendered before the expiration of the period for which it was granted, or

[1] The words ' Local Government ' in ss 35 and 36 were substituted for the word ' Board the Bengal Excise (Amendment) Act 1911 (Ben Act 7 of 1911), s 5 (2), *post*, p 936

(d) to any medical practitioner, chemist, druggist, apothecary or keeper of a dispensary, for the retail sale of any excisable article for medicinal purposes.

Fees for terms, conditions and form of, and duration of licenses, permits and passes.

38. (1) Every license, permit or pass granted under this Act—

(a) shall be granted—

(i) on payment of such fees (if any), and

(ii) subject to such restrictions and on such conditions and

(b) shall be in such form and contain such particulars as the [1][Local Government] may direct[2]

(2) Every license, permit or pass under this Act shall be granted for such period (if any) as may be prescribed by rule made by the Local Government under section 85, clause (e)

39. (*Continuance of licenses granted under former law*) *Rep by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914)*, s 14

Counterpart agreement by licensee and security or deposit.

40. Any authority granting a license under this Act may require the grantee to execute a counterpart agreement in conformity with the tenor of his license, and to give such security for the performance of such agreement, or to make such deposit in lieu of security, as such authority may think fit

Technical defects irregularities and omissions not

41. (1) No license granted under this Act shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the license or in any proceedings taken prior to the grant thereof

(2) The decision of the Excise Commissioner or (where a reference is made to the [1][Local Government] under section 35) the [1][Local Government] as to what is a technical defect, irregularity or omission, shall be final

Power to cancel or suspend license permit or pass

42. (1) Subject to such restrictions as the Local Government may prescribe, the authority who granted any license, permit or pass under this Act may cancel or suspend it—

(a) if it is transferred or sublet by the holder thereof without the permission of the said authority; or

(b) if any duty or fee payable by the holder thereof be not duly paid, or

(c) in the event of any breach by the holder thereof, or by any of his servants, or by any one acting on his behalf with his express or implied permission, of any of the terms or conditions thereof; or

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(*Chapter VI.—Licenses, Permits and Passes.—Sec. 43.*)

(*d*) if the holder thereof is convicted of any offence punishable under this Act or any other law for the time being in force relating to revenue, or of any cognizable and non-bailable offence, or of any offence punishable under the Merchandise Marks Act, 1889[1], or under any section which has been introduced into the Indian Penal Code[2] by section 3 of that Act, or

(*e*) if the holder thereof is punished for any offence referred to in clause 8 of section 167[3] of the Sea Customs Act, 1878, or

(*f*) where a license, permit or pass has been granted on the application of the holder of an exclusive privilege granted under section 22,—on the requisition in writing of such holder, or

(*g*) if the conditions of the license, permit or pass provide for such cancellation or suspension at will

(2) When a license, permit or pass held by any person is cancelled under clause (*a*), clause (*b*), clause (*c*), clause (*d*) or clause (*e*) of sub-section (*1*), the authority aforesaid may cancel any other license, permit or pass granted to such person under this Act or under any other law for the time being in force relating to Excise, or under the Opium Act, 1878[4]

(3) The holder of a license, permit or pass shall not be entitled to any compensation for its cancellation or suspension under this section, or to the refund of any fee paid or deposit made in respect thereof.

Power to withdraw licenses

43. (*1*) Whenever the authority who granted any license under this Act considers that the license should be withdrawn for any cause other than those specified in section 42, it shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days, and may withdraw the license either—

(*a*) on the expiration of fifteen days' notice in writing of its intention to do so, or

(*b*) forthwith, without notice

(2) If any license be withdrawn under clause (*b*) of sub-section (*1*), the said authority shall, in addition to remitting such sum as aforesaid pay to the licensee such further sum (if any), by way of compensation, as the Excise Commissioner may direct

(3) When a license is withdrawn under sub-section (*1*), any fee paid in advance, or deposit made, by the licensee in respect thereof shall be refunded to him after deducting the amount (if any) due to the Government

Surrender of license.

44. [1][(1) Any holder of a license granted under this Act to sell an excisable article may, unless his license is liable to cancellation or suspension under section 42, surrender the same on—

(i) the expiration of one month's notice in writing given by him to the Collector of his intention to surrender it, and

(ii) payment of the fees payable for the license for the whole period for which it would have been current but for such surrender:

Provided that, if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a license, he may remit to the holder thereof the sum so payable on surrender, and any fees paid in advance, or any portion of such sum or fees.]

(2) Sub-section (1) shall not apply in the case of license for the sale of any country liquor or intoxicating drug in the exercise of an exclusive privilege granted under section 22.

Explanation.—The words "holder of a license" as used in this section include a person whose tender or bid for a license has been accepted although he may not actually have received the license.

Bar to right of renewal and to compensation.

[2]**44A.** No person to whom a license has been granted under this Act shall have any claim to the renewal of such license, or, save as provided in section 43, any claim to compensation on the determination thereof.

CHAPTER VII.

Departmental Management or Transfer.

Power of Collector to take grants under management or to transfer them.

45. If any holder of a license granted under this Act, or any person to whom an exclusive privilege has been granted under section 22, contravenes any provision of this Act or any rule made hereunder, or makes default in complying with any condition imposed upon him by such license or privilege, or

if any holder of a license granted under this Act surrenders the same under section 44,

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[1] This sub-section (1) of s. 44 was substituted for the original sub-section (1) by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. 15, *post*, p. 937. The original sub-section ran thus:—

"(1) Any holder of a license granted under this Act to sell an excisable article may surrender his license on the expiration of one month's notice in writing given by him to the Collector of his intention to surrender the same, unless the license is liable to cancellation or suspension under section 42."

[2] Section 44A was inserted by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. 16, *post*, p. 937.

the Collector may (in the case of a license, after the cancellation or surrender thereof, and, in the case of an exclusive privilege, at any time)—

(a) take the grant under management, at the risk and loss of the person to whom it was made, or

(b) transfer the unexpired portion of the grant, at the risk and loss of the said person, to any other person

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CHAPTER VIII

Offences and Penalties

46. If any person in contravention of this Act, or of any rule, notification or order made, issued or given, or license, permit or pass granted, under this Act,— Penalty for unlawful import, export, transport, manufacture, possess on sale, etc

(a) imports, exports, transports, manufactures, possesses or sells any excisable article, or

(b) cultivates any hemp plant (*Cannabis sativa*), or

(c) collects or sells any portion of the hemp plant (*Cannabis sativa*) from which an intoxicating drug can be manufactured or produced, or

(d) bottles any liquor for purposes of sale or

(e) works any distillery or brewery, or

(f) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any excisable article other than *tari*, or

(g) establishes any distillery, brewery or warehouse, or

(h) removes any excisable article from any distillery, brewery, warehouse or other place of storage licensed, established, authorized or continued under this Act,

he shall be liable to imprisonment for a term which may extend to[2] [six] months or to fine which may extend to one thousand rupees, or to both

[3][Provided that, if any person is convicted under this section of any offence committed in respect to cocaine, he shall

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be liable to imprisonment for a term which may extend to one year, or to fine which may extend to two thousand rupees, or to both.]

Presumption as to offence where possession is not satisfactorily accounted for.

47. In prosecutions under section 46 it may be presumed, unless and until the contrary is proved, that the accused person has committed an offence punishable under that section in respect of—

(*a*) any excisable article, or

(*b*) any still, utensil, implement or apparatus whatsoever for the manufacture of any excisable article other than *tari*, or

(*c*) any materials which have undergone any process towards the manufacture of an excisable article, or from which an excisable article has been manufactured,

for the possession of which he fails to account satisfactorily.

Penalty for altering or attempting to alter any denatured spirit.

[1]**48.** If any person alters or attempts to alter any denatured spirit whether *manufactured in British India or not*, with the intention that such spirit may be used for human consumption, whether as a beverage, or internally as a *medicine*, or in any other way whatsoever, by any method whatsoever,

or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made,

he shall be liable to *imprisonment for a term which may* extend to six months, or to fine which may extend to one thousand rupees, or to both.

Presumption as to offence under section 48 in certain cases.

[2]**48A.** In prosecutions under section 48, when the accused person is proved to have been in possession of any spirit which is or contains, or has been derived from denatured spirit, and in respect of which any such alteration or attempt as is referred to in section 48 has been made, it may, from the mere fact of such possession, be presumed, unless and until the contrary is proved, that such person—

(*i*) has himself made such alteration or attempt, or

(*ii*) knows or has reason to believe that such alteration or attempt has been made.

Presumption as to any spirit which contains any denaturant.

[2]**48B.** In any prosecution under this Act it may be presumed, unless and until the contrary is approved, that any spirit which contains any quantity of any denaturant is, or has been derived from, denatured spirit.

Penalty for adulteration by licensed manufacturer or vendor or his servant.

49. If any licensed manufacturer or licensed vendor, or any person in his employ and acting on his behalf,

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[1] This s. 48 was substituted for the original section by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. 20, *post*, p. 938.

[2] Sections 48A and 48B were inserted by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. 21, *post*, p. 938.

(Chapter VIII.—Offences and Penalties.—Secs. 50, 51.)

mixes, or permits to be mixed, with any excisable article manufactured, sold or kept or exposed for sale by him, any noxious drug or any article prohibited by rule made under section 86, clause (9), sub-clause (i) and such mixing does not amount to an offence punishable under section 272 of the Indian Penal Code[1], [2][or

has in his possession any excisable article in respect of which such admixture has been made.]

he shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees, or to both.

50. If any licensed manufacturer or licensed vendor, or any person in his employ and acting on his behalf,— Penalty for fraud by licensed manufacturer or vendor or his servant.

(a) sells or keeps or exposes for sale as foreign liquor, any liquor which he knows or has reason to believe to be country liquor and such sale does not amount to an offence punishable under section 417 or section 418 of the Indian Penal Code[1], or

(b) marks any bottle, case, package or other receptacle containing country liquor or the cork of any such bottle, or

deals with any bottle, case, package or other receptacle containing country liquor,

with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor,

and such marking or dealing does not amount to an offence punishable under section 482 of the said Indian Penal Code[1],

he shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or to both.

51. (1) If any licensed vendor, or any person in his employ and acting on his behalf,— Penalty for certain unlawful acts of licensed vendors or their servants.

(a) in contravention of section 25, employs or permits to be employed, in any part of his licensed premises referred to in that section, any child or woman, or

(b) sells any excisable article to a person who is drunk or intoxicated, or

(c) sells or delivers any spirit or intoxicating drug to any child apparently under the age of fourteen years, whether for consumption by such child or by any other person, and whether for consumption on or off the premises of such vendor, or

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[1] Printed in the General Acts, 1834-67, Ed. 1909, p. 248.

[2] These words and square brackets were inserted by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. 9, post, p. 938.

(d) permits drunkenness, intoxication, disorderly conduct or gaming on the premises of such vendor, or

(e) permits any person whom he knows, or has reason to believe, to have been convicted of any non-bailable offence or who are reputed prostitutes, to meet or any such person to remain on the premises of such vendor, whether for the purposes of crime or prostitution or not,

he shall be liable to fine which may extend to five hundred rupees

(2) When any licensed vendor, or any person in his employ and acting on his behalf, is charged with permitting drunkenness or intoxication on the premises of such vendor, and it is proved that any person was drunk or intoxicated on such premises, it shall lie on the person charged to prove that the vendor and the persons employed by him took all reasonable steps for preventing drunkenness or intoxication on such premises

Penalty for possession of excisable article in respect of which an offence has been committed

52. If any person without lawful authority, has in his possession any quantity of any excisable article, knowing the same to have been unlawfully imported, transported or manufactured or knowing that the prescribed duty has not been paid thereon, he shall be liable to imprisonment for a term which may extend to [1][six] months or to fine which may extend to one thousand rupees, or to both

Penalty for consumption in chemist's shop etc

53. (1) If any chemist, druggist, apothecary or keeper of a dispensary allows any excisable article which has not been *bonâ fide* medicated for medicinal purposes to be consumed on his business premises by any person not employed in his business, he shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees, or to both

(2) If any person not employed as aforesaid consumes any such excisable article on such premises, he shall be liable to fine which may extend to two hundred rupees

Penalty for certain acts by licensee or his servant

54. If any holder of a license, permit or pass granted under this Act, or any person in his employ and acting on his behalf,—

(a) fails to produce such license, permit or pass on the demand of any Officer empowered by the Local Government, by notification[2], to make such demand, or

(b) in any case not provided for in section 46, wilfully contravenes any rule made under section 85 or section 86, or

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(c) wilfully does any act, in breach of any of the conditions of the license, permit or pass, for which a penalty is not prescribed elsewhere in this Act,

he shall be liable, in case (a), to fine which may extend to two hundred rupees, and in case (b) or case (c) to fine which may extend to five hundred rupees.

Import, export, transport, manufacture, sale or possession by one person on account of another

55. (1) When any excisable article has been [1][imported, exported, transported,] manufactured or sold or is possessed by any person on account of any other person, and such other person knows or has reason to believe that such [1][import, export, transport,] manufacture or sale was, or that such possession is, on his account, the article shall, for the purposes of this Act, be deemed to have been [1][imported, exported, transported,] manufactured or sold by, or to be in the possession of, such other person.

(2) Nothing in sub-section (1) shall absolve any person who [1][imports, exports, transports,] manufactures, sells or has possession of an excisable article on account of another person from liability to any punishment under this Act for the unlawful [1][import, export, transport,] manufacture, sale or possession of such article.

Criminal liability of licensee for acts of servant

56. When any offence punishable under section 46, section 49, section 50, section 51, section 52 or section 54 is committed by any person in the employ and acting on behalf of the holder of a license, permit or pass granted under this Act, such holder shall also be punishable as if he had himself committed the offence, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

Imprisonment under section 55 or section 56

57. No person other than the actual offender shall be punished under section 55 or section 56 with imprisonment, except in default of payment of a fine.

Penalty on Excise Officer making vexatious search, seizure, detention or arrest, or refusing duty or being guilty of cowardice

58. If any Excise Officer—

(a) without reasonable grounds of suspicion, searches or causes to be searched any place under colour of exercising any power conferred by this Act, or

(b) vexatiously and unnecessarily seizes any property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or

(c) vexatiously and unnecessarily detains, searches or arrests any person, or

(d) without lawful excuse, ceases or refuses to perform, or withdraws himself from, the duties of his office, unless expressly allowed to do so in writing by

[1] These words in square brackets in s. 55 were inserted by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. 23, post, p. 938.

the Collector or unless he has given to his immediate superior two months' notice in writing of his intention to do so, or

(e) is guilty of cowardice,

he shall be liable to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or to both.

Penalty for offences not otherwise punishable

59. If any person is convicted of any act in contravention of any of the provisions of this Act, or of any rule, notification or order made, issued or given under this Act, for which a penalty is not prescribed elsewhere in this Act, he shall be liable to fine which may extend to two hundred rupees.

Penalty for contempt of Court

60. Every proceeding under this Act before a Collector, or before any officer, of such rank as the Local Government may, by notification[1], prescribe, who is exercising powers of a Collector, shall be deemed to be a "judicial proceeding" within the meaning of section 228[2] of the Indian Penal Code. 45 of 1

Penalty for attempt to commit offence

61. Whoever attempts to commit any offence punishable under this Act shall be liable to the punishment provided for such offence.

Enhanced punishment after previous conviction

62. If any person, after having previously been convicted of an offence punishable under section 46, [3][section 48,] section 52 or section 53, or under similar provisions in any enactment repealed by this Act [4][or in the Eastern Bengal and Assam Excise Act, 1910,] E B & Act 1

subsequently commits and is convicted of an offence punishable under any of those sections,

he shall be liable to twice the punishment which might be imposed on a first conviction under this Act:

[5][Provided that nothing in this section shall prevent any offence, which might otherwise have been tried summarily under Chapter XXII[6] of the Code of Criminal Procedure, 1898, from being so tried.] 5 of 18

What things are liable to confiscation

63. (1) Whenever an offence has been committed which is punishable under this Act, the excisable article, materials, still, utensil, implement and apparatus in respect of or by means of which such offence has been committed shall be liable to confiscation.

(2) Any excisable article lawfully imported, transported, manufactured, had in possession or sold along with, or in

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addition to any excisable article which is liable to confiscation under sub-section (*1*),

and the receptacles, packages and coverings in which any such excisable article as first aforesaid, or any such materials, still, utensil, implement or apparatus as aforesaid, is found,

and the other contents, if any, of such receptacles or packages,

and the animals, carts, vessels, rafts or other conveyances used in carrying the same,

shall likewise be liable to confiscation.

Provided that no animal, cart, vessel, raft or other conveyance as aforesaid shall be liable confiscation unless the owner thereof is proved to have been implicated in the commission of the offence.

Confiscation by Magistrate or Collector

64. (*1*) When, in any case tried by him, the Magistrate decides that any thing is liable to confiscation under section 63, he may either order confiscation or give the owner of such thing an option to pay, in lieu of confiscation, such fine as the Magistrate thinks fit.

(*2*) Whenever anything is liable to confiscation under section 63, and the offender or the person entitled to possession is not known or cannot be found, the case shall be inquired into and determined by the Collector, who may order confiscation:

Provided that no such order shall be made until the expiration of [1][two months] from the date of seizing the thing intended to be confiscated, or without hearing any person who may claim any right thereto and the evidence (if any) which he produces in support of his claim:

Provided, further, that if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that its sale would be for the benefit of its owner, the Collector may at any time direct it to be sold, and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

Power to compound offences and to release property liable to confiscation

65. (*1*) The Collector, or any Excise Officer specially empowered by the Local Government in this behalf, not below the rank of Deputy Collector, [2][or Superintendent of Excise],—

(*a*) may accept from any person whose license, permit or pass is liable to be cancelled or suspended under clause (*a*), clause (*b*) or clause (*c*) of section 42, or who is reasonably suspected of having committed an offence punishable under [3][any section of this Act other than

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section 58], payment of a sum of money, not exceeding two hundred rupees, in lieu of such cancellation or suspension or by way of composition for such offence, as the case may be; and

(*b*) in any case in which any property has been seized as being liable to confiscation under section 63, may, at any time before the Magistrate has passed an order under section 64, sub-section (*1*), release the property on payment of any sum not exceeding the value thereof as estimated by the Collector or such Excise Officer

(*2*) When the payments referred to in sub-section (*1*) have been duly made, the accused person, if in custody, shall be discharged, and the property seized (if any) shall be released and no further proceedings shall be taken against such person or property

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CHAPTER IX

DETECTION, INVESTIGATION AND TRIAL OF OFFENCES, AND PROCEDURE.

Power to enter and inspect, and power to test and seize measures, etc

66. Any of the following officers, namely,—

(*a*) the Excise Commissioner, or

(*b*) a Collector, or

(*c*) any Excise Officer not below such rank as the Local Government may, by notification[1], prescribe,

may, subject to any restrictions prescribed by the Local Government by rule made under section 85,—

(*i*) enter and inspect, at any time by day or night, any place in which any licensed manufacturer carries on the manufacture of, or stores, any excisable articles, and

(*ii*) enter and inspect, at any time during which the same may be open, any place in which any excisable article is kept for sale by any licensed person, and

[2][(*iia*) examine the accounts and registers maintained in any such place as aforesaid, and]

(*iii*) examine, test, measure or weigh any materials, stills, utensils, implements, apparatus or excisable article found in any such place as aforesaid, and

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[1] For a notification issued under s 66 (c) see paragraph 34 of Notification No J S R, dated the 30th March 191 published in the Calcutta Gazette of the 31st idem Pt I, p 77

[2] This clause (iia) of s 66 was inserted by the Bengal Excise (Amendment) Act, 1914 (Ben Act 7 of 1914), s 27, *post*, p 338

(*iv*) examine or test and seize any measures, weights or testing instruments, found in any such place as aforesaid, which he has reason to believe to be false

Power to arrest without warrant, to seize articles liable to confiscation, and to make searches

67. Any of the following persons, namely,—

(*a*) any officer of the Excise, Police Salt, Customs, Opium or Land-revenue Department, or

(*b*) any person empowered by the Local Government in this behalf, by notification,

may, subject to any restrictions prescribed by the Local Government by rule made under section 85,—

(*i*) arrest without warrant any person found committing an offence punishable under section 46, section 48, section 52 or section 53, and

(*ii*) seize and detain any article which he has reason to believe to be liable to confiscation under this Act or any other law for the time being in force relating to the excise-revenue, and

(*iii*) detain and search any person upon whom, and any vessel, raft, vehicle, animal, package, receptacle or covering in or upon which, he may have reasonable cause to suspect any such article to be

Power to issue warrant of arrest

68. The Collector, [1] [or any Magistrate empowered to try offences punishable under this Act,] may issue a warrant for the arrest of any person whom he has reason to believe to have committed [1] [or abetted the commission of] any offence punishable under section 46, section 48, section 52 or section 53

Power to issue search warrant

69. If any Collector, or [2] [any Magistrate empowered to try offences punishable under this Act,] upon information received, and after such inquiry (if any) as he thinks necessary, has reason to believe that any offence punishable under section 46, section 48, section 52 or section 53 has been, or is likely to be, committed [3] [or abetted,]

he may issue a warrant to search for—

any excisable article, material, still, utensil, implement or apparatus in respect of which the alleged offence has been, or is likely to be, committed [3] [or abetted] [4][or

any document, which throws or is likely to throw any light on the alleged offence]

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for the word "Magistrate by the
9) (*a*) *post* p 93)
gal Excise (Amendment) Act, 1914

e Bengal Excise (Amendment) Act,
1914 (Ben Act 7 of 1914), s 29 (*c*), *post*, p 939

Power of Collector or Magistrate to arrest or search without issuing a warrant

[1]**69A.** The Collector, or any Magistrate empowered to try offences punishable under this Act, may at any time—

(*a*) arrest, or direct the arrest in his presence of, any person for whose arrest he is competent at the time and in the circumstances to issue a warrant under section 68, or

(*b*) search, or direct a search to be made in his presence of, any place for the search of which he is competent to issue a search-warrant under section 69.

Power of Excise Officer, other than Collector, to search without a warrant

70. Whenever [2] * * * any Excise Officer not below such rank as the Local Government may, by notification[3], prescribe, has reason to believe that an offence punishable under section 46, section 48, section 52 or section 53 has been, is being or is likely to be, committed [4][or abetted,] and that a search-warrant cannot be obtained without affording the offender an opportunity of escaping or of concealing evidence of the offence,

he may, after recording the grounds of his belief, at any time by day or night enter and search any place, and may seize any thing found therein which he has reason to believe to be liable to confiscation under this Act, and

may detain and search, and, if he thinks proper, arrest, any person found in such place whom he has reason to believe to have committed [4][or abetted] any such offence as aforesaid.

Information and aid to Excise Officers

71. (*1*) Every officer of the Police, Salt, Customs, Opium and Land-revenue Departments, and every officer employed by [5][a body of Port Commissioners,] shall be bound, subject to any rules made under section 85, clause (*l*), to give immediate information to an Excise Officer of all breaches of any of the provisions of this Act which may come to his knowledge.

(*2*) Every officer referred to in sub-section (*1*), and every village *chaukidar* and *dafadar*, shall be bound, subject to any rules made under section 85, clause (*l*), to give reasonable aid to any Excise Officer in carrying out the provisions of this Act, or of any rule, notification or order made, issued or given under this Act, upon request made by such Officer.

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post p 939

(Chapter IX—Detection, Investigation and trial of Offences, and Procedure—Secs 72-74)

72. Whenever any excisable article is manufactured, or any hemp plant (*Cannabis sativa*) is cultivated, or any portion of the hemp plant (*Cannabis sativa*) from which an intoxicating drug can be manufactured or produced, is collected, on any land, in contravention of this Act, Duty of owners and occupiers of land and other persons to give notice of unlicensed manufacture

all owners and occupiers of such land, and their agents, and all *panchayats*, village headmen, *patwaris*, *sarbarakars*, *chaukidars* and *dafadars* of the village,

shall, in the absence of reasonable excuse, be bound to give notice of the fact to a Magistrate or an officer of the Excise, Police or Land-revenue Department, as soon as the fact comes to their knowledge

73. *(1)* A Collector may, without the order of a Magistrate, investigate any offence punishable under this Act which a Court having jurisdiction over the local area within the limits of the Collector's jurisdiction would have power to inquire into or try under the provisions of Chapter XV of the Code of Criminal Procedure, 1898[1], relating to the place of inquiry or trial What Excise Officers may investigate offences

(2) Any other Excise Officer specially empowered[2] in this behalf by the Local Government in respect of all or any specified class of offences punishable under this Act may, without the order of a Magistrate investigate any such offence which a Court having jurisdiction over the local area to which such Officer is appointed would have power to inquire into or try under the aforesaid provisions

74. *(1)* Any Collector, or any Excise Officer empowered under section 73, sub section *(2)*, may, after recording in writing his reason for suspecting the commission of an offence which he is empowered to investigate, exercise— Powers and duties of Excise Officers investigating offences

- *(a)* any of the powers conferred upon a Police Officer *making an investigation or upon an officer in charge* of a police-station, by sections 160 to 171 of the Code of Criminal Procedure, 1898[1], and,
- *(b)* as regards offences punishable under section 46, section 48, section 52 or section 53 of this Act—any of the powers conferred upon Police Officers in respect of cognizable offences by clause *first* of sub section *(1)* of section 54 and by section 56 of the said Code[1],

and the said portions of the said Code[1] shall apply accordingly, subject to any restrictions or modifications prescribed by the Local Government by rule made under section 85, clause *(o)*

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[1] Printed in the General Acts 1898 03 Ed 1909 p 38

[2] For an order made under s 3 (2) *see* paragraph 35 of Notification No ... S R dated the 30th March 1915 published in the Calcutta Gazette of the 31st *idem* Pt I p 577

(*2*) Subject to any restrictions prescribed[1] by the Local Government, a Collector, or an Excise Officer empowered under section 73, sub-section (*2*), may, without reference to a Magistrate, and for reasons to be recorded by him in writing, stop further proceedings against any person concerned, or supposed to be concerned in any offence which he or any Excise Officer subordinate to him has investigated

(*3*) For the purposes of section 156 of the Code of Criminal Procedure, 1898[2] the area to which an Excise Officer empowered under section 73 sub-section (*2*), is appointed shall be deemed to be a police-station, and such Officer shall be deemed to be the officer in charge of such station 5 of

(*4*) As soon as an investigation by a Collector or by an Excise Officer empowered under section 73, sub-section (*2*), has been completed, if it appears that there is sufficient evidence to justify the forwarding of the accused to a Magistrate, the investigating officer, unless he proceeds under sub-section (*2*) of this section or under section 65 of this Act, shall submit a report (which shall, for the purposes of section 190 of the Code of Criminal Procedure, 1898[2], be deemed to be a police-report) to a Magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on police reports 5 of 18

Security and bail

75. (*1*) Whenever a Collector issues a warrant under this Act for the arrest of any person,

he shall direct, by endorsement on the warrant, that, if such person executes a bond with sufficient sureties for his attendance, before the Collector or before an Excise Officer empowered under section 73, sub section (*2*), to investigate the case, at a specified time and thereafter until otherwise directed by the Collector or an Excise Officer empowered as aforesaid, the officer to whom the warrant is directed shall take such security, and shall release such person from custody

(*2*) The endorsement shall state—

(*a*) the number of sureties,

(*b*) the amount in which they, and the person for whose arrest the warrant is issued, are respectively to be bound, and

(*c*) the time at which such person is to attend as aforesaid.

(*3*) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Collector or to an Excise Officer empowered as aforesaid.

(*4*) Whenever any person is arrested under this Act, otherwise than under a warrant, and is prepared to give bail, he shall be released on bail, or, at the discretion of the officer releasing him, on his own bond

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[1] For orders made under s 74 (*2*), *see* paragraph 36 of Notification No 596 S R, dated the 30th March 1915 published in the Calcutta Gazette of the 31st *idem*, Pt I, p 577

[2] Printed in the General Acts, 1898-03, Ed 1909, p 38

(5) Any Excise Officer not below such rank as the Local Government may, by notification[1], prescribe, may release persons on bail or on their own bond.

(6) Bonds taken under this section from persons arrested otherwise than under warrant shall bind such persons to appear before the Collector or an Excise Officer empowered under section 73, sub-section (2), to investigate the case.

(7) The provisions of sections 498 to 502, 513, 514 and 515 of the Code of Criminal Procedure, 1898[2], shall apply, so far as may be, in every case in which bail is accepted or a bond taken under this section.

Production of articles seized and persons arrested

76. (1) Articles seized under the warrant of the Collector, and, unless security for their appearance before the Collector be taken, persons arrested under such a warrant, shall be produced before the Collector.

(2) Articles seized under section 66, section 67 or section 69, and persons arrested under this Act by persons or officers not having authority to release arrested persons on bail or on their own bond, shall be produced before or forwarded to—

(a) the Collector or an Excise Officer empowered under section 73, sub-section (2), to investigate the case, or

(b) the nearest Excise Officer who has authority to release arrested persons on bail or on their own bond, or

(c) the officer in charge of the nearest police-station whoever is nearer.

is produced before an Excise

ease arrested persons on bail or

officer in charge of a police-

station, such officer shall for ... rd such person to, or take security for his appearance before, the Collector or the Excise Officer empowered under section 73, sub-section (2), to investigate the case.

(4) When any articles seized cannot conveniently be conveyed before an officer referred to in sub-section (1) or sub-section (2), as the case may be, the person making the seizure shall dispose of them in some place of safety and forthwith report the seizure to such an officer.

Custody by Police of articles seized

77. (1) All officers in

charge of and keep in s

Magistrate, or of the Collec

under section 73, sub-section (2), to investigate the case, all articles seized under this Act which may be delivered to them, and shall allow any Excise Officer who may accompany

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[1] For a notification issued under s. 75 (5) see paragraph 31 of Notification No. 590 S.R., dated the 30th March, 1915 published in the Calcutta Gazette of the 31st idem Pt. I p. 677.

[2] Printed in the General Acts, 1898-03, Ed. 1903 p. 38.

such articles to the police-station, or who may be deputed for the purpose by an official superior to affix his seal to such articles and to take samples of and from them.

(*2*) All samples so taken shall be sealed with the seal of the officer in charge of the police-station.

Reports of arrests, seizures and searches.

78. When any Excise Officer below the rank of Collector, or any officer in charge of a police-station, makes, or receives information of, any arrest, seizure or search under this Act, he shall, within twenty-four hours thereafter, make a full report of all the particulars of the arrest, seizure or search, or of the information received, to the Collector, and to the Excise Officer (if any) empowered under section 73, sub-section (*2*), within the local limits of whose jurisdiction the arrest, seizure or search was made.

Execution of Collector's warrant.

79. Any warrant issued by a Collector may be executed by any officer selected by the Collector for the purpose:

Provided that no warrant issued by the Collector for execution in that part of the Calcutta district in which the administration of the Police is vested in the Commissioner of Police shall be executed by any Police Officer who is subordinate to the said Commissioner, unless it be endorsed by a Police Officer duly empowered in that behalf under section 7, clause (*d*).

Maximum period of detention.

80. (*1*) No person arrested under this Act shall be detained in custody for a longer period than under all the circumstances of the case is reasonable, and such period shall not exceed twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the place where a Collector or an Excise Officer empowered under section 73, sub-section (*2*), to investigate the case may be, and thence to the Court of a Magistrate having jurisdiction to inquire into or try the case.

(*2*) A Magistrate to whom an accused person is forwarded under section 167 of the Code of Criminal Procedure, 1898[1], 5 of
by a Collector or an Excise Officer empowered under section 73, sub-section (*2*), may exercise the powers conferred upon a Magistrate by the said section 167.

Application of certain provisions of the Code of Criminal Procedure, 1898.

81. (*1*) Save as is in this Act otherwise expressly provided, the provisions of the Code of Criminal Procedure, 1898[1], relat- 5 of
ing to arrests, detentions in custody, search, summonses, warrants of arrest, search-warrants and the production of persons arrested shall apply, so far as may be, to arrests, detentions and searches made, summonses and warrants issued, and the production of persons arrested under this Act.

(*2*) For the purposes of the said provisions of the said Code[1], a Collector shall be deemed to be a Court.

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[1] Printed in the General Acts, 1898-03, Ed. 1909, p. 38.

(Chapter IX.—Detection, Investigation and trial of Offences, and Procedure.—Chapter X.—Miscellaneous.—Secs. 82-85.)

(3) Officers to whom a Collector's warrant is directed or endorsed, and officers (other than Collectors) making arrests, searches or seizures under this Act, shall, for the purposes of the said provisions of the said Code[1], be deemed to be Police Officers.

Magistrates having jurisdiction to try offences.

82. No Magistrate other than—

(a) a Presidency Magistrate, or

(b) a Magistrate whose powers are not less than those of a Magistrate of the second class, or

(c) a Magistrate of the third class, specially empowered by the District Magistrate in this behalf,

shall try any offence punishable under this Act.

Initiation of certain prosecutions.

83. No Magistrate shall take cognizance of an offence referred to—

(a) in section 46, section 48, section 52 or section 53, except on his own knowledge or suspicion, or on the complaint or report of an Excise Officer or an officer empowered in this behalf by the Local Government, or

(b) in section 54, section 58, clause (d) or clause (e), or section 59, except on the complaint or report of the Collector or an Excise Officer authorized by the Collector in this behalf.

Bar to transfer of trial on application of accused.

84. The provisions of section 191 of the Code of Criminal Procedure, 1898[1], shall not apply in any case in which a Magistrate (not being the Collector) takes cognizance of an offence under this Act on the report of any officer referred to in clause (a) or clause (b) of section 83.

CHAPTER X

MISCELLANEOUS

Power of Local Government to make rules.

85. (1) The Local Government may make rules[2] to carry out the objects of this Act or any other law for the time being in force relating to the excise-revenue.

(2) In particular, and without prejudice to the generality of the foregoing provision, the Local Government may make rules—

(a) for prescribing the powers and duties of officers of the Excise Department,

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[1] Printed in General Acts 1898-03 Ed. 1909 p. 38.

[2] For rules made under s. 85 *see* Notification No. 595 S.R., dated the 30th March, 1915, published in the Calcutta Gazette of the 31st *idem*, Pt. I, p. 549.

(*Chapter X.—Miscellaneous—Sec 85*)

(*b*) for regulating the delegation of any powers by [1]* * the Commissioner of a Division, the Excise Commissioner or Collectors under section 7, clause (*g*),

(*c*) for declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Act or under any rule made hereunder, and for prescribing the time and manner for presenting, and the procedure for dealing with, such appeals,

(*d*) for regulating the import, export or transport of any excisable article,

(*e*) for regulating the periods for which licenses for the wholesale or retail vend of any excisable article may be granted, and the number of such licenses which may be granted for any local area,

(*f*) for prohibiting the grant of licenses for the retail sale of any excisable article at any place or within any local area described in the rules, or for defining the places in the vicinity of which shops for the retail sale of any excisable article shall not ordinarily be licensed,

(*g*) for prohibiting the grant to specified classes of persons of licenses for the retail sale of any excisable article,

(*h*) for declaring either generally, or in respect of areas described in the rules the persons or classes of persons to whom any excisable article may or may not be sold,

(*j*) for regulating the procedure to be followed and prescribing the matters to be ascertained before any license for the wholesale or retail vend of any excisable article is granted for any locality,

(*k*) for restricting the exercise of any of the powers conferred by [2][section 65, clause (*a*), and] sections 66 and 67,

(*l*) for declaring the Excise Officers to whom, and the manner in which, information or aid should be given under section 71,

(*m*) for the grant of expenses to witnesses,

(*n*) for the grant of compensation for loss of time to persons released by any Excise Officer under this Act on the ground that they have been improperly arrested, and to persons charged before a Magistrate with offences punishable under this Act and subsequently acquitted, and

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ause (*l*) of s 85 were inserted by the
33, *post*, p 933

(*Chapter X —Miscellaneous —Sec 86.*)

(*o*) for prescribing restrictions or modifications in the application to Excise Officers of the provisions of the Code of Criminal Procedure, 1898[1], relating to powers of Police Officers which are referred to in section 74, sub-section (*1*), of this Act

(*3*) The powers conferred by this section for making rules are subject to the condition that the rules be made after previous publication[2]

Provided that any such rules may be made without previous publication if the Local Government considers that they should be brought into force at once

Further power of local Government to make rules

86. The [3][Local Government] make rules [4]—

(*1*) for regulating the manufacture, supply or storage of any excisable article, and in particular, and without prejudice to the generality of this provision, may make rules for regulating—

(*a*) the establishment, inspection, supervision, management and control of any place for the manufacture, supply or storage of any excisable article, and the provision and maintenance of fittings implements and apparatus therein,

(*b*) the bottling of liquor for purposes of sale,

(*c*) the cultivation of the hemp plant (*Cannabis sativa*),

(*d*) the collection of portions of the hemp plant (*Cannabis sativa*) from which intoxicating drugs can be manufactured or produced, and the manufacture or production of intoxicating drugs therefrom,

(*e*) the tapping of *tari* producing trees and the drawing of *tari* from trees,

(*f*) the marking of *tari*-producing trees in areas notified under section 14, sub-section (*1*), and the maintenance of such marks,

(*2*) for fixing the strength, price or quantity in excess of or below which any excisable article shall not be supplied or sold, and the quantity in excess of which denatured spirit shall not be possessed, and for

[1] Printed in the General Acts 1908 09 Pt 1 1909 p 38
[2] As to previous publication see the Bengal General Clauses Act 1899 (Ben Act 1 of 1899),

prescribing a standard of quality for any excisable article,

(3) for declaring how spirit manufactured in British India shall be denatured,

(4) for causing spirit so manufactured to be denatured through the agency or under the supervision of Government officers,

(5) for ascertaining whether any spirit so manufactured has been denatured,

(6) for regulating the deposit of any excisable article in a warehouse established, authorized or continued under this Act, and the removal of any excisable article from any such warehouse or from any distillery or brewery,

(7) for prescribing the scale of fees or the manner of fixing the fees payable in respect of any exclusive privilege granted under section 22 or any license, permit or pass granted under this Act, or in respect of the storing of any excisable article,

(8) for regulating the time, place and manner of payment of such fees,

(9) for prescribing the restrictions under which or the conditions on which any license, permit or pass may be granted, and in particular, and without prejudice to the generality of this provision, may make rules for—

(i) prohibiting the admixture with any excisable article of any article deemed to be noxious or objectionable,

(ii) regulating or prohibiting the reduction of liquor by a licensed manufacturer or licensed vendor from a higher to a lower strength,

(iii) prescribing the nature and regulating the arrangement of the premises in which any excisable article may be sold, and prescribing the notices to be exposed at such premises,

(iv) prohibiting or regulating the employment by the licensee of any person or class of persons to assist him in his business,

(v) prohibiting the sale of any excisable article except for cash,

(vi) prescribing the days and hours during which any licensed premises may or may not be kept open, and providing for the closing of such premises on special occasions,

(*vii*) prescribing the accounts to be maintained and the returns to be submitted by licensees, and

(*viii*) regulating the transfer of licenses;

(*10*) for prescribing the particulars to be contained in licenses, permits or passes granted under this Act;

(*11*) for the payment of compensation to licensees whose premises are closed under section 26 or under any rule made under sub-clause (*vi*) of clause (*9*) of this section;

(*12*) for prescribing the time, place and manner of levying duty on excisable articles;

(*13*) for providing for the destruction or other disposal of any excisable article deemed to be unfit for use; and

(*14*) for regulating the disposal of things confiscated under this Act.

Explanation.—Fees may be prescribed under clause (*7*) of this section at different rates for different classes of exclusive privileges, licenses, permits, passes or storage, and for different areas.

87. (*Powers of Board exercisable from time to time.*) *Rep. by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. 5 (1).*

88. All rules made, and notifications issued, under this Act shall be published in the Calcutta Gazette, and on such publication shall have effect as if enacted in this Act. Publication and effect of rules and notifications.

89. (*1*) The following moneys, namely,— Recovery of dues.

(*a*) all excise-revenue,

(*b*) any loss that may accrue when a grant has been taken under management by the Collector or transferred by him under section 45, and

(*c*) all amounts due to the Government by any person on account of any contract relating to the excise-revenue,

may be recovered from the person primarily liable to pay the same, or from his surety (if any), by distress and sale of his movable property, or by the process prescribed for the recovery of arrears of revenue.[1]

(*2*) When a grant has been taken under management by the Collector, or has been transferred by him, under section 45, the Collector may recover, in any manner authorized by sub-section (*1*), any money due to the grantee by any lessee or assignee.

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[1] See the Bengal Public Demands Recovery Act, 1913 (Ben. Act 3 of 1913), s. 3 (6), Sch. I, Art. 3, *post*, p. 810.

(3) When any money is due, in respect of an exclusive privilege, to a grantee referred to in section 23, from any person holding under him,

such grantee may apply to the Collector, and the Collector may recover such money on his behalf in either of the ways provided by sub-section *(1)*:

Provided that nothing in this sub-section shall affect the right of any such grantee to recover any such money by civil suit.

Power of Local Government to exempt excisable articles from provisions of Act.

90. The Local Government may, by notification[1], either wholly or partially, and subject to such conditions (if any) as it may think fit to prescribe, exempt any excisable article from all or any of the provisions of this Act either throughout Bengal or in any specified local area, or for any specified period or occasion or as regards any specified class of persons.

Bar of certain suits.

91. No suit shall lie in any Civil Court against the Secretary of State for India in Council or any Excise Officer for damages for any act in good faith done or ordered to be done in pursuance of this Act or of any other law for the time being in force relating to the excise-revenue.

Limitation of suits and prosecutions.

92. No Civil Court shall try any suit against the Secretary of State for India in Council in respect of anything done, or alleged to have been done, in pursuance of this Act,

and, except with the previous sanction of the Local Government, no Magistrate shall take cognizance of any charge made against any Excise Officer under this Act or any other law relating to the excise-revenue, or made against any other person under this Act,

unless the suit or prosecution is instituted within six months after the date of the act complained of.

Bar to application of section 261 of the Bengal Municipal Act, 1884.

[2] **92A.** Section 261[3] of the Bengal Municipal Act, 1884, shall not apply to— Ben. of 18

(a) any distillery, brewery, warehouse or other place of storage licensed, established, authorized or continued under this Act, or

(b) the premises used for the manufacture or sale of any excisable article by the holder of a license granted under this Act for such manufacture or sale.

Repeal.

93. The enactments mentioned in the first column of the Schedule are hereby repealed to the extent specified in the third column thereof.

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[1] For a notification issued under s. 90 *see* paragraph 37 of Notification No. 596 S.R., dated the 30th March, 1915, published in the Calcutta Gazette of the 31st idem, Pt. I, p. 577.

[2] Section 92A was inserted by the Bengal Excise (Amendment) Act, 1914 (Ben. Act 7 of 1914), s. 34, *post*, p. 9[illegible]9.

[3] Printed in Vol. II of this Code.

of 1909.]

(The Schedule.)

THE SCHEDULE.

[ENACTMENTS REPEALED.]

(See section 93.)

1	2	3
Number and year	Short title	Extent of repeal
	Part I.—Acts of the Governor General of India in Council.	
16 of 1863 ...	The Excise (Spirits) Act, 1863	So much as has not been repealed.
9 of 1885 ...	The Excise and Sea Customs Law Amendment Act, 1885	In the title, the words and figures "the Bengal Excise Act, 1878, and". In the preamble, the words and figures "section 18 of the Bengal Excise Act, 1878, and". Section 3.
13 of 1890 ...	The Excise (Malt Liquors) Act, 1890	Sections 6, 7 and 8, and the heading prefixed thereto.
8 of 1894 ...	The Indian Tariff Act, 1894	Section 6.
12 of 1896 ...	The Excise Act ...	So much as has not been repealed.
5 of 1897 ...	The Amendment Act, 1897	So much of the second Schedule as relates to Bengal Act I of 1883 (Excise).
7 of 1906 ...	The Excise (Amendment) Act, 1906	The whole.
	Part II.—Bengal Acts.	
7 of 1878 ...	The Bengal Excise and Licensing Act, 1878	
4 of 1881 ...	The Bengal Excise Amendment Act, 1881	So much as has not been repealed.
1 of 1883 ...	The Bengal Excise (Amendment) Act, 1883.	
2 of 1903 ...	The Bengal Excise and Licensing (Amendment) Act, 1903	The whole.

BENGAL ACT 1 OF 1910

[THE CALCUTTA PORT (AMENDMENT) ACT, 1910][1].

(23rd March, 1910)

An Act further to amend the Calcutta Port Act, 1890[1].

Whereas it is expedient further to amend the Calcutta Port Act, 1890[2], it is hereby enacted as follows —

1. This Act may be called the Calcutta Port (Amendment) Act, 1910 — Short title

2. In the proviso to section 30 of Calcutta Port Act, 1890[2], after the figures "31" the words, letter and brackets "[except clause (*g*) thereof]" shall be inserted. — Amendment of section 30 of Ben Act 3 of 1890

3. (*1*) After clause (*f*) of section 31 of the said Act[3] the following shall be inserted, namely — — Amendment of section 31

[Printed in Vol II of this Code]

(*2*) For sub-section (*2*) of the said section 31 the following shall be substituted, namely —

(*2*) [Printed in Vol II of this Code]

(*3*) In sub-section (*3*) of the said section 31, before the word "shall" the words and letter "or clause (*g*)" shall be inserted.

4. In section 33 of the said Act[3], after the word "allowance" the following shall be inserted, namely — — Amendment

"or of granting a pension, gratuity or compassionate allowance to any officer or servant injured, or to surviving relatives of any officer or servant killed, in the execution of his duty"

5. In sub-section (*1*) of section 34 of the said Act[3], after the word "rupees" the following shall be inserted, namely — — Amendment of section 34

"or to any surviving relative of any officer referred to in this section"

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[1] [2] Calcutta Gazette, 1910,

BENGAL ACT 2 OF 1910

[THE BENGAL MUNICIPAL (AMENDMENT AND VALIDATION) ACT, 1910][1]

(*23rd March, 1910*)

An Act to declare the meaning of certain words in clause (*b*) of section 66 of the Bengal Municipal Act, 1884[2].

Whereas certain officers were directed by the Lieutenant-G[illegible] issued under clause (*b*) of section
Act 3 84 [illegible] t 1884[2] to exercise and perform [illegible] e Commissioners of certain Municipalities who had been superseded by orders issued under section 65 of that Act[2],

And whereas the said officers in exercise of the power conferred by section 9 of the said Act[2] on Commissioners at a meeting recommended alterations in the numbers of the Commissioners of the said Municipalities

And whereas the Lieutenant Governor of Bengal thereupon, by notifications issued under sections 9 and 9A of the said Act[2], altered the numbers of the Commissioners of the said Municipalities with effect from the expiration of the period for which the former Commissioners were superseded,

And whereas doubts have been raised as to whether clause (*b*) of the said section 66 confers upon the persons appointed thereunder any of the powers of the Commissioners which are expressed by the said Act[2] to be exercisable only at a meeting of the Commissioners,

And whereas it is expedient to remove such doubts, by declaring that the said clause (*b*) refers to powers exercisable at a meeting of the Commissioners

And whereas it is also expedient to give retrospective effect to such declaration in order to validate all action taken by bodies of Municipal Commissioners constituted in pursuance of orders issued under the said section 9 on the recommendation of the officers aforesaid,

And whereas in the case of one of the Municipalities hereinbefore referred to, namely, the Santipur Municipality, the

[1] LEGISLATIVE PAPERS—For Statement of Objects and Reasons see Calcutta Gazette 1910 [illegible]

BENGAL ACT 2 OF 1910

[THE BENGAL MUNICIPAL (AMENDMENT AND VALIDATION) ACT, 1910][1]

(23rd March, 1910)

An Act to declare the meaning of certain words in clause (*b*) of section 66 of the Bengal Municipal Act, 1884[2].

Whereas certain officers were directed by the Lieutenant-G[illegible] e (*b*) of section [illegible] and perform [illegible] certain Municipalities who had been superseded by orders issued under section 65 of that Act[3],

Act 3
4

And whereas the said officers, in exercise of the power conferred by section 9 of the said Act[3] on Commissioners at a meeting, recommended alterations in the numbers of the Commissioners of the said Municipalities,

And whereas the Lieutenant-Governor of Bengal thereupon, by notifications issued under sections 9 and 9A of the said Act[3], altered the numbers of the Commissioners of the said Municipalities, with effect from the expiration of the period for which the former Commissioners were superseded,

And whereas doubts have been raised as to whether clause (*b*) of the said section 66 confers upon the persons appointed thereunder any of the powers of the Commissioners which are expressed by the said Act[3] to be exercisable only at a meeting of the Commissioners,

And whereas it is expedient to remove such doubts, by declaring that the said clause (*b*) refers to powers exercisable at a meeting of the Commissioners,

And whereas it is also expedient to give retrospective effect to such declaration, in order to validate all action taken by bodies of Municipal Commissioners constituted in pursuance of orders issued under the said section 9 on the recommendation of the officers aforesaid,

And whereas, in the case of one of the Municipalities hereinbefore referred to, namely, the Santipur Municipality, the

number of the Commissioners was altered by a Notification No 1726, dated the 2nd September, 1904, issued under section 9 of the said Act, instead of by notifications issued under both section 9 and section 9A;

And whereas it is expedient to validate the said notification;

It is hereby enacted as follows.—

Short title

[1] **1.** This Act may be called the Bengal Municipal (Amendment and Validation) Act, 1910.

Meaning of clause (*b*) of section 66 of Bengal Act 3 of 1884

[1] **2.** The expression "all the powers and duties of the Commissioners" in clause (*b*) of section 66 of the Bengal Municipal Act, 1884[2], shall include, and shall be deemed always to have included, powers and duties which may be exercised and performed at a meeting of the Commissioners, as well as powers and duties which may be exercised and performed otherwise than at such a meeting

Validation of notification altering the number of the Commissioners of the Santipur Municipality

3. The Notification No. 1726, dated the 2nd September, 1904 which was framed under section 9 of the said Act[3] and published at page 202 of Part IB of the Calcutta Gazette of the 7th day of September, 1904, shall be deemed to be as valid as if it had been rightly framed and followed in due course by a notification framed under section 9A of that Act[3], and the number of the Commissioners of the Santipur Municipality, in the district of Nadia, shall accordingly be deemed to have been lawfully fixed at nine, with effect from the 2nd day of September, 1904, and shall remain at nine unless and until the number be altered[4] hereafter by notifications published under sections 9 and 9A of the said Act

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[illegible] the Bengal Laws Act, 1911 (Ben. Act [illegible]

BENGAL ACT 3 OF 1910

[THE CALCUTTA AND SUBURBAN POLICE (AMENDMENT) ACT, 1910]

CONTENTS.

BENGAL ACT 3 OF 1910

[THE CALCUTTA AND SUBURBAN POLICE (AMENDMENT) ACT, 1910][1]

(11th May, 1910)

Ben Act 4 of 1866
Ben Act 2 of 1866

An Act further to amend the Calcutta Police Act, 1866[2], and the Calcutta Suburban Police Act, 1866[2].

Whereas it is expedient further to amend the Calcutta Police Act, 1866,[2] and the Calcutta Suburban Police Act, 1866[2], in the manner hereinafter appearing, It is hereby enacted as follows —

Short title

1. This Act may be called the Calcutta and Suburban Police (Amendment) Act, 1910

Definitions

Ben Act 4 of 1866
Ben Act 2 of 1866

2. The expression "the Calcutta Act," as used in this Act, means the Calcutta Police Act, 1866[2], and the expression "the Suburban Act" as used in this Act, means the Calcutta Suburban Police Act, 1866[2]

Additions to section 3 of the Calcutta Act

3. To section 3 of the Calcutta Act the following shall be added, namely —

[Printed in Vol II of this Code.]

Additions to section 3 of the Calcutta Act and section 51 of the Suburban Act

4. To section 3 of the Calcutta Act, and to section 51 of the Suburban Act, the following shall be added, namely —

[Printed in Vol II of this Code]

New section 10A for the Calcutta Act and 4A for the Suburban Act

5. The following section shall be inserted in the Calcutta Act as section 10A and in the Suburban Act as section 4A, namely —

[Printed in Vol II of this Code]

Amendment of section 13 of the Calcutta Act

6. In section 13 of the Calcutta Act, for the word "constable" the words "Police-officer" shall be substituted

New sections 13A to 13C for the Calcutta Act and 8A to 8C for the Suburban Act

7. The following sections shall be inserted in the Calcutta Act as sections 13A, 13B, and 13C, and in the Suburban Act as sections 8A 8B, and 8C, namely —

[Printed in Vol II of this Code]

New section 14A for the Calcutta Act and 8D for the Suburban Act

8. The following section shall be inserted in the Calcutta Act as section 14A, and in the Suburban Act as section 8D, namely —

[Printed in Vol II of this Code]

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[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons *see* Calcutta Gazette 1909 Pt [illegible] ... 3 221 ... 12 of ... same area

[2] Printed in Vol II of this Code

New section 21A for the Calcutta Act and 15A for the Suburban Act

9. The following section shall be inserted in the Calcutta Act as section 21A, and in the Suburban Act as section 15A, namely —

[Printed in Vol II of this Code]

New section 29 for the Calcutta Act and 15B for the Suburban Act

10. The following section shall be substituted for section 29 of the Calcutta Act, and shall be inserted in the Suburban Act as section 15B, namely —

[Printed in Vol II of this Code]

Amendment of section 36 of the Calcutta Act and section 19 of the Suburban Act

11. For the words "subject to the order and control of the Lieutenant-Governor of Bengal" in section 36 of the Calcutta Act, and for the words "subject to the order and control of the said Lieutenant-Governor," in section 19 of the Suburban Act, the following shall be substituted, namely —

"The Commissioner of Police shall, in granting or refusing certificates under this section, be subject to the direction and control of the Lieutenant-Governor"

Amendment of section 33 of the Suburban Act

12. In section 33 of the Suburban Act, for the words "police-office" the words "police-station" shall be substituted

New section 54A for the Calcutta Act and 33A for the Suburban Act

13. The following section shall be inserted in the Calcutta Act as section 54A and in the Suburban Act as section 33A, namely —

[Printed in Vol II of this Code]

Amendment of section 60 of the Calcutta Act and section 37 of the Suburban Act

14. In section 60 of the Calcutta Act, and in section 37 of the Suburban Act,—

(*1*) after the word "oath" the words "and reduced to writing" shall be inserted,

(*2*) after the words "Police-officer" the words "not below the rank of Sub-Inspector" shall be inserted,

(*3*) the words "in the day-time" are hereby repealed,

(*4*) for the word "gunpowder," wherever it occurs, the words "explosive substance" shall be substituted, and

(*5*) after the words "this Act" the words "or any other law or any rule made thereunder" shall be inserted

Amendment of section 61 of the Calcutta Act and section 38 of the Suburban Act

15. (*1*) In section 61 of the Calcutta Act, and in section 38 of the Suburban Act for the word "gunpowder," in each place in which it occurs, the words "explosive substances" shall be substituted

(*2*) In the same sections, for the word "four" the word "three" shall be substituted

New sections substituted for section 62 of the Calcutta Act and section 39 of the Suburban Act

16. The following sections shall be substituted for section 62 of the Calcutta Act, being numbered 62, 62A, 62B and 62C, respectively, and shall also be substituted for section 39 of the Suburban Act, being numbered 39, 39A, 39B and 39C, respectively, namely —

[Printed in Vol II of this Code]

(*Secs 17-27*)

17. After clause (*4*) of section 66 of the Calcutta Act, and after clause (*4*) of section 40 of the Suburban Act, the following shall be inserted, namely — Amendment of section 66 of the Calcutta Act and section 40 of the Suburban Act

"(*4a*) whoever exposes or keeps any article so as to cause obstruction in any public thoroughfare" Exposing or keeping articles so as to cause obstruction

18. After section 70 of the Calcutta Act the following shall be inserted, namely — New section 70A (*1*) for the Calcutta Act

70A (*1*) [Printed in Vol II of this Code]

19. After section 40 of the Suburban Act the following shall be inserted, namely — New section 40A (*1*) for the Suburban Act

40A (*1*) [Printed in Vol II of this Code]

20. After the said sub-section (*1*) of section 70A of the Calcutta Act, and after the said sub-section (*1*) of section 40A of the Suburban Act, the following shall be inserted, namely — Sub sections (*2*) and (*3*) for section 70A of the Calcutta Act and section 40A of the Suburban Act

(*2*), (*3*) [Printed in Vol II of this Code]

21. The following sub-section shall be substituted for section 72 of the Calcutta Act, namely — New section 72 (*1*) for the Calcutta Act

72 (*1*) [Printed in Vol II of this Code]

22. The following sub-section shall be substituted for section 43 of the Suburban Act, namely — New section 43 (*1*) for the Suburban Act

43 (*1*) [Printed in Vol. II of this Code]

23. After the said sub-section (*1*) of section 72 of the Calcutta Act, and after the said sub-section (*1*) of section 43 of the Suburban Act, the following shall be inserted, namely — New sub section (*2*) for section 72 of the Calcutta Act and section 43 of the Suburban Act

(*2*) [Printed in Vol II of this Code]

24. For the words "station-house," wherever they occur in sections 76 and 77 of the Calcutta Act, and for the words "police station-house" in section 45 of the Suburban Act, and for the words "station-house" wherever they occur in section 46 of the latter Act, the words "police station" shall be substituted Amendment of sections 76 and 77 of the Calcutta Act and sections 45 and 46 of the Suburban Act

25. The following section shall be inserted in the Calcutta Act as section 78A, and in the Suburban Act as section 47A, namely — New section 78A for the Calcutta Act and 47A for the Suburban Act

[Printed in Vol II of this Code]

26. In section 79 of the Calcutta Act, after the words "by such warrant" the following shall be inserted, namely — Amendment of section 79 of the Calcutta Act

"Provided that no such warrant shall authorize any Police-officer below the rank of Sub-Inspector to make any entry or search at night"

27. The following section shall be inserted in the Calcutta Act as section 80 A, and in the Suburban Act as section 47 B, namely — New section 80 A for the Calcutta Act and 47 B for the Suburban Act

[Printed in Vol II of this Code]

New section 80 B for the Calcutta Act

28. The following section shall be inserted in the Calcutta Act after the said section 80 A, namely:—

80 B [Printed in Vol. II of this Code.]

New section 80 C for the Calcutta Act and 47 C for the Suburban Act

29. The following section shall be inserted in the Calcutta Act as section 80C and in the Suburban Act as section 47C, namely:—

[Printed in Vol. II of this Code.]

New sections 100 and 101 for the Calcutta Act

30. For sections 100 and 101 of the Calcutta Act the following shall be substituted, namely:—

100, 101 [Printed in Vol. II of this Code.]

New sections 102 A and 102 B for the Calcutta Act and 49 A and 49 B for the Suburban Act

31. The following sections shall be inserted in the Calcutta Act as sections 102 A and 102 B, and in the Suburban Act as sections 49A and 49B, respectively:—

[Printed in Vol. II of this Code.]

New section 102 C for the Calcutta Act and 49 C for the Suburban Act

32. (*1*) The following section shall be inserted in the Calcutta Act as section 102 C, namely:—

[Printed in Vol. II of this Code.]

(*2*) The following section shall be inserted in the Suburban Act as section 49 C, namely:—

[Printed in Vol. II of this Code.]

Amendment of forms

33. For Form A in the Schedule to the Calcutta Act, and for the form of certificate appended to the Suburban Act, the following shall be substituted, namely:—

"A B has been appointed a member of the Calcutta Police-force and is vested with the powers, functions and privileges of a Police-officer

CALCUTTA,

The 19 *Commissioner of Police*"

Repeal

34. The enactments specified in columns 1 and 2 of the Schedule are hereby repealed, to the extent mentioned in column 3 thereof.

THE SCHEDULE.

[REPEAL OF ENACTMENTS.]

(See section 31.)

1	2	3
No. and Year	Short title	Extent of repeal
	Bengal Acts	
[1]2 of 1866 ...	The Calcutta Suburban Police Act, 1866	In section 2, the words "and men." Section 6. In section 16, the word "road." Section 35. In the opening clause of section 40, the word "public," where it occurs before the word "street," and the word "road." In clause (2) of section 40, the words "of any description" and the words "except when, in the opinion of the Magistrate there may be sufficient moonlight to render such light unnecessary." In clause (3) of section 40 the words "carriage, cart or other." Clauses (5) to (9) and (12) of section 40. In clause (14) of section 40, the word "public," where it occurs before the word "street." In clause (15) of section 40, the word "horses." In clause (17) of section 40, the word "road."
[1]4 of 1866 ...	The Calcutta Police Act, 1866	In section 8, the words "and men," and the words "with the sanction of the Governor General of India in Council." Section 12. In section 32, the word "road." Section 58. In the opening clause of section 66 the word "public," where it occurs before the word "street" and the word "road." In clause (2) of section 66, the words "of any description" and the words "except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary."

[1] Printed in Vol. II of this Code.

(Schedule.)

1	2	3
No and Year	Short title	Extent of repeal.
	Bengal Acts—concld	
[1] 4 of 1866 .	The Calcutta Police Act 1866—*concld*	In clause (*3*) of section 66, the words carriage cart or other' Clauses (*5*) to (*9*) of section 66. In clause (*11*) of section 66, the words 'public" and 'road" Clause (*12*) of section 66 In clause (14) of section 66, the word 'public", where it occurs before the word "street' In clause (*15*) of section 66, the word "horses" In section 70, the word 'road" In section 71 the word "roads"
[1] 2 of 1886 ...	The Calcutta and Suburban Police (Amendment) Act, 1886	Section 4
[2] 2 of 1895	The Calcutta and Suburban Police (Amendment) Act, 1895	Sections 3 and 4
[3] 3 of 1907 ...	The Calcutta and Suburban Police (Amendment) Act, 1907	Sections 6, 8 and 9

[1] Printed in Vol II of this Code
[2] Printed *ante*, p 63
[3] Printed *ante*, p 697

BENGAL ACT 4 OF 1910

[The Bengal Cess (Amendment) Act 1910]

CONTENTS

(*Schedule.*)

1	2	3
No and Year	Short title	Extent of repeal.
	Bengal Acts—concld	
[1] 4 of 1866 .	The Calcutta Police Act 1866—*concld*	In clause (*3*) of section 66, the words "carriage, cart or other " Clauses (*5*) to (*9*) of section 66. In clause (*11*) of section 66, the words "public" and "road" Clause (*12*) of section 66 In clause (*14*) of section 66, the word "public", where it occurs before the word "street", In clause (*15*) of section 66, the word "horses." In section 70, the word "road" In section 71 the word "roads"
[1] 2 of 1886 ...	The Calcutta and Suburban Police (Amendment) Act, 1886	Section 4
[2] 2 of 1895	The Calcutta and Suburban Police (Amendment) Act, 1895	Sections 3 and 4.
[3] 3 of 1907 ...	The Calcutta and Suburban Police (Amendment) Act, 1907	Sections 6, 8 and 9

[1] Printed in Vol II of this Code
[2] Printed *ante*, p 63
[3] Printed *ante*, p 597

BENGAL ACT 4 OF 1910

[The Bengal Cess (Amendment) Act 1910]

CONTENTS

Section

BENGAL ACT 4 OF 1910

[THE BENGAL CESS (AMENDMENT) ACT, 1910][1].

(25th May, 1910)

An Act further to amend the Cess Act, 1880[2].

Whereas it is expedient further to amend the Cess Act, 1880[2], in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. This Act may be called the Bengal Cess (Amendment) Act, 1910. Short title

2. (*1*) The words "revenue or", in both places in which they occur in the definition of "annual value of any land, estate or tenure" in section 4 of the Cess Act, 1880[2], are hereby repealed. Amendment of section 4 of Bengal Act 9 of 1880

(*2*) To the said definition the following shall be added, namely —

[Printed in Vol II of this Code]

(*3*) After the definition of "the Collector of the district," in the same section, the following definition shall be inserted, namely —

[Printed in Vol. II of this Code.]

3. In section 12 of the Cess Act, 1880[2], after the words "this section" the words, figures and letter "or in Chapter IIA" shall be inserted. Amendment of section 12

4. In section 14 of the said Act[3], after the words "has ordered" the words and figures "under section 12" shall be inserted. Amendment of section 14

5. (*1*) In sections 12, 14, 15, 16, 36, 54 and 57 of the said Act[3], for the words "Lieutenant-Governor", wherever they occur, the words "Board of Revenue" shall be substituted. Amendment of sections 12, 14, 15, 16, 36, 54 and 57

(*2*) In sections 12 and 15 of the said Act[3], for the word "he", wherever it occurs, the word "they" shall be substituted.

6. For sections 22 and 23 of the said Act[3], the following shall be substituted, namely — New sections 22 and 23

22, 23. [Printed in Vol. II of this Code.]

7. In section 37 of the said Act[3], for the words "Board of Revenue" the word "Commissioner" shall be substituted. Amendment of section 37

8. After section 37 of the said Act[3], the following shall be inserted, namely.— New Chapter IIA

Chapter IIA.—37A to 37 I. [Printed in Vol. II of this Code.]

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1 [illegible] Statement of Objects and Reasons see Calcutta Gazette, 1910, [illegible] originally to have [illegible] which the Cess Act, [illegible] er, (March 1915) [illegible]

Amendment of section 41 — **9.** To section 41 of the Cess Act, 1880[1], the following shall be added, namely — (Ben 1880)

[Printed in Vol II of this Code]

Amendment of section 44 — **10.** After sub-section (4) of section 44 of the Cess Act, 1880[1], the following shall be inserted, namely — (Ben 1880)

(4a), (4b) [Printed in Vol II of this Code]

Amendment of section 46 (2) — **11.** In sub-section (2) of section 46 of the Cess Act, 1880[1], for the words from "and the Board of Revenue may" to the end of the sub-section, the following shall be substituted, namely — (Ben 1880)

'and the Collector, if he becomes aware that any separate account opened under sub section (1) does not represent existing facts, may, after service of a notice on the recorded proprietor or manager, and after hearing any objection which may be preferred within six weeks of such service, close the account"

Amendment of section 49 — **12.** In section 49 of the said Act[2], for the words "fifteen days" the words "six weeks" shall be substituted.

New section 52A — **13.** After section 52 of the said Act[2] the following shall be inserted, namely —

52A [Printed in Vol II of this Code]

Amendment of section 54 — **14.** For clause (1) of the concluding paragraph of section 54 of the said Act[2] the following shall be substituted, namely —

(1) a statement of the quantity, or a description, of the land, as entered in the Collector's valuation-roll"

New section 72A — **15.** After section 72 of the said Act[2] the following shall be inserted, namely —

72A [Printed in Vol II of this Code]

New section 91A — **16.** After section 91 of the said Act[2] the following shall be inserted, namely —

91A [Printed in Vol II of this Code]

Partial repeal of section 94 — **17.** *In section 94 of the said Act[2], the words from* "And, if the person so prosecuted" to the end of the section are hereby repealed

Amendment of section 102 — **18.** In section 102 of the said Act[2], after the words and figures "section 78 and," the words, figures and letter "subject to anything contained in Chapter IIA" shall be inserted.

Amendment of section 104 — **19.** In section 104 of the said Act[2], after the figures "26" the figures "46 (2)" shall be inserted

Amendment of section 105 — **20.** For section 105 of the said Act[2] the following shall be substituted, namely —

105 [Printed in Vol II of this Code]

Amendment of sections 112 and 113 — **21.** In sections 112 and 113 of the said Act[2], for the words Lieutenant-Governor' the word "Commissioner' shall be substituted

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[1] Printed in Vol II of this Code
[2] The Cess Act, 1880 It is printed in Vol II of this Code

BENGAL ACT 2 OF 1911

[THE BENGAL VACCINATION (AMENDMENT) ACT, 1911]

CONTENTS

SECTION

BENGAL ACT 2 OF 1911

[THE BENGAL VACCINATION (AMENDMENT) ACT, 1911][1]

(22nd March, 1911.)

An Act further to amend the Bengal Vaccination Act, 1880[1].

Act [illegible] 1880.

Whereas it is expedient further to amend the Bengal Vaccination Act, 1880[2], in manner hereinafter appearing;

It is hereby enacted as follows:—

Short title and local extent.

1. *(1)* This Act may be called the Bengal Vaccination (Amendment) Act, 1911; and

(2) It applies in the first instance only to—

(a) Calcutta as defined in clause *(7)* of section 3 of the Calcutta Municipal Act, 1899[3];

Act 3 [illegible].

(b) the port of Calcutta; and

(c) the Cossipore Chitpur, Garden Reach, Howrah, Maniktala, South Suburban and Tollygunj Municipalities.

Power to extend Act.

2. *(1)* The Local Government may, by notification published in the Calcutta Gazette, declare its intention to extend this Act or any portion thereof to any town or selected area not mentioned in section 1, sub-section *(2)*.

(2) Any inhabitant of any such town or area who objects to such extension may, within a period of six weeks from such publication, send his objection in writing to a Secretary to the Government of Bengal, and the Local Government shall consider all objections so sent.

(3) After the expiration of the said period the Local Government, if no objections have been so sent or if it considers that the objections so sent are insufficient, may, by a like notification, effect the proposed extension.

(4) The substance of every notification under sub-section *(1)* or sub-section *(3)* shall be proclaimed and notified in the vernacular within the town or area affected by such means and in such manner as the Local Government may direct.

Power to suspend Act.

3. The Local Government may by notification in the Calcutta Gazette suspend the operation of this Act in any place.

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[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1910, Pt. IV, p[illegible] 13[illegible] 137; for Proceedings in Council, see ibid., Pt. IV A, p. 518, and ibid., 1911, Pt. IVA, p. [illegible]6.

LOCAL EXTENT.—This Act extends to the areas mentioned in section 1 (2), and may be extended by notification to any other town or selected area in Western Bengal, see s. 2 *(1)*.

The whole of this Act has since been extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I, printed, p. 8[illegible]1.

[2] Printed in Vol. II of this Code.

[3] Printed *ante*, p. [illegible]19.

(*Secs* 4-7)

Amendment of section 2 of Bengal Act 5 of 1880

4. After the definition of "public vaccinator" in section 2 of the Bengal Vaccination Act, 1880[1], the following shall be inserted, namely —

"'Inspector' means a person authorized by the Superintendent of Vaccination to exercise all or any of the functions of an Inspector under this Act"

Repeal of portions of section 2

5. The following words in section 2 of the said Act[2] are hereby repealed, namely —

(*1*) the words 'or specially licensed by the Lieutenant Governor to practise vaccination and grant certificates under the provisions of this Act', in the definition of "medical practitioner", and

(*2*) the word "either" and the words "or by inoculation", in the definitions of "unprotected child" and "unprotected person"

Amendment of section 3

6. In section 3 of the said Act[2],—

(*1*) for the words "one year", in the first place in which they occur, the words "six months" shall be substituted and

(*2*) the following words shall be repealed, namely —

"or, if the child be at the time of its arrival less than one year old, within one year and three months after its birth, and the parent or guardian of every unprotected child living in such place at the date of this Act coming into force therein and whose age at such date exceeds one year, but does not exceed fourteen years shall within six months from the said date"

Amendment of section 4

7. In section 4 of the said Act[2],—

(*1*) for the words "the same day in the following week" the following shall be substituted, namely —

"a day not less than seven or more than ten days",

(*2*) for the words "by the operator or by any person deputed for that purpose by the Superintendent of Vaccination" the following shall be substituted namely —

'by the operator (if a medical practitioner or by an Inspector',

(*3*) for the words "and it shall be the duty of any public vaccinator who has vaccinated a child elsewhere than at a public vaccine-station to visit the child at the time and for the purpose above mentioned

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[1] Printed in Vol II of this Code

[2] The Bengal Vaccination Act 1880 It is printed in Vol II of this Code

(*Secs. 8-15.*)

whether he is requested to do so or not, unless the Superintendent of Vaccination has deputed some other person to act for such public vaccinator in this behalf" the following shall be substituted, namely :—

"and, when any public vaccinator has vaccinated a child elsewhere than at a public vaccine-station, an Inspector shall visit the child at the time and for the purpose above mentioned, whether he is requested to do so or not";

(4) for the words "the public vaccinator" the words "the Inspector" shall be substituted; and

(5) for the words "a public vaccinator" the words "an Inspector" shall be substituted.

8. In section 5 of the said Act [1],— Amendment of section 5

(1) for the words "public vaccinator" in both places in which they occur, the word "Inspector" shall be substituted, and

(2) for the words "three months," in both places in which they occur, the words "one month" shall be substituted.

9. For section 6 of the said Act [1] the following shall be substituted, namely :— Amendment of section 6

6. [Printed in Vol. II of this Code.]

10. In section 7 of the said Act [1], for the words "Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child and shall have ascertained that the same has been successful," the following shall be substituted, namely :— Amendment of section 7

"When a public vaccinator or medical practitioner has performed the operation of vaccination upon any child, and an Inspector or such practitioner has ascertained that the same has been successful, such Inspector or practitioner, as the cases may be."

11. In section 8 of the same Act [1],— Amendment of section 8

(1) for the words "public vaccinator," where they first occur, the word "Inspector" shall be substituted, and

(2) after the word "nor" the words "by any public vaccinator" shall be inserted.

12. In section 10 of the said Act [1], after the word "assistants" the words "or any Inspector" shall be inserted. Amendment of section 10

13. In sections 13A, 29A and 29B of the said Act [1], after the words "public vaccinator" the words "or Inspector" shall be inserted. Amendment of sections 13A, 29A and 29B

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[1] The Bengal Vaccination Act, 1880 It is printed in Vol II of this Code

(*Secs 4-7*)

Amendment of section 2 of Bengal Act 5 of 1880

4. After the definition of "public vaccinator" in section 2 of the Bengal Vaccination Act, 1880[1], the following shall be inserted, namely —

"'Inspector' means a person authorized by the Superintendent of Vaccination to exercise all or any of the functions of an Inspector under this Act"

Repeal of portions of section 2

5. The following words in section 2 of the said Act[2] are hereby repealed, namely —

(*1*) the words "or specially licensed by the Lieutenant-Governor to practise vaccination and grant certificates under the provisions of this Act", in the definition of "medical practitioner", and

(*2*) the word "either" and the words "or by inoculation", in the definitions of "unprotected child" and "unprotected person"

Amendment of section 3

6. In section 3 of the said Act[2],—

(*1*) for the words "one year", in the first place in which they occur, the words "six months" shall be substituted, and

(*2*) the following words shall be repealed, namely —

"or, if the child be at the time of its arrival less than one year old, within one year and three months after its birth, and the parent or guardian of every unprotected child living in such place at the date of this Act coming into force therein, and whose age at such date exceeds one year, but does not exceed fourteen years, shall, within six months from the said date"

Amendment of section 4

7. In section 4 of the said Act[2],—

(*1*) for the words "the same day in the following week" the following shall be substituted, namely —

"a day not less than seven or more than ten days",

(*2*) for the words "by the operator or by any person deputed for that purpose by the Superintendent of Vaccination" the following shall be substituted, namely —

"by the operator (if a medical practitioner) or by an Inspector",

(*3*) for the words "and it shall be the duty of any public vaccinator who has vaccinated a child elsewhere than at a public vaccine-station to visit the child at the time and for the purpose above mentioned

[1] Printed in Vol II of this Code
[2] The Bengal Vaccination Act 1880 It is printed in Vol II of this Code

(*Secs. 8-15.*)

whether he is requested to do so or not, unless the Superintendent of Vaccination has deputed some other person to act for such public vaccinator in this behalf" the following shall be substituted, namely :—

"and, when any public vaccinator has vaccinated a child elsewhere than at a public vaccine-station, an Inspector shall visit the child at the time and for the purpose above mentioned, whether he is requested to do so or not";

(*4*) for the words "the public vaccinator" the words "the Inspector" shall be substituted; and

(*5*) for the words "a public vaccinator" the words "an Inspector" shall be substituted.

8. In section 5 of the said Act [1],— Amendment of section 5

(*1*) for the words "public vaccinator" in both places in which they occur, the word "Inspector" shall be substituted, and

(*2*) for the words "three months," in both places in which they occur, the words "one month" shall be substituted.

9. For section 6 of the said Act [1] the following shall be substituted, namely :— Amendment of section 6

6. [Printed in Vol. II of this Code.]

10. In section 7 of the said Act [1], for the words "Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child and shall have ascertained that the same has been successful," the following shall be substituted, namely :— Amendment of section 7

"When a public vaccinator or medical practitioner has performed the operation of vaccination upon any child, and an Inspector or such practitioner has ascertained that the same has been successful, such Inspector or practitioner as the cases may be."

11. In section 8 of the same Act [1],— Amendment of section 8.

(*1*) for the words "public vaccinator," where they first occur, the word "Inspector" shall be substituted, and

(*2*) after the word "nor" the words "by any public vaccinator" shall be inserted.

12. In section 10 of the said Act [1], after the word "assistants" the words "or any Inspector" shall be inserted. Amendment of section 10

13. In sections 13A, 29A and 29B of the said Act [1], after the words "public vaccinator" the words "or Inspector" shall be inserted. Amendment of sections 13A, 29A and 29B

[1] The Bengal Vaccination Act, 1880. It is printed in Vol II of this Code

Amendment of sections 15, 16 and 33

14. *In sections 15, 16 and 33 of the said Act* [1], *after the* words "public vaccinators," wherever they occur, the words "and Inspectors" shall be inserted.

Amendment of section 19

15. In section 19 of the said Act [1], for the words "public vaccinator" the word "Inspector" shall be substituted.

Amendment of section 28

16. In clause (*a*) of section 28 of the said Act [1], before the words "after vaccination" the words "to the operator (if a medical practitioner) or to an Inspector" shall be inserted.

Amendment of Schedule A

17. In Schedule A to the said Act [1],—

(*1*) for the words "three months" the words "one month" shall be substituted, and

(*2*) for the words "Public Vaccinator" the word "Inspector" shall be substituted.

Amendment of Schedule B

18. For Schedule B to the said Act[1] the following shall be substituted, namely:—

SCHEDULE B

[Printed in Vol. II of this Code.]

Amendment of Schedule C

19. In Schedule C to the said Act [1],—

(*1*) after the words "by me" the words "(*or* by a public vaccinator)" shall be inserted, and

(*2*) for the words "Public Vaccinator" the word "Inspector" shall be substituted.

Amendment of Schedule E

20. *In Schedule E to the said Act* [1],—

(*1*) for the words "one year" the words "six months" shall be substituted, and

(*2*) for the words "the public vaccinator," in the fourth place in which they occur, and for the words "a public vaccinator," the words "an Inspector" shall be substituted.

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[1] The Bengal Vaccination Act, 1880. It is printed in Vol. II of this Code.

BENGAL ACT I OF 1911

[THE BENGAL LOCAL GOVERNMENT ACT, 1911][1]

(13th September, 1911.)

An Act to transfer functions of the Lieutenant-Governor of Bengal to the Lieutenant-Governor in Council

Whereas the Governor General in Council has, with the approval of the Secretary of State in Council, by Proclamation No. 2278, dated the 18th November, 1910[2], made under section 3 of the Indian Councils Act, 1909, created a Council for the purpose of assisting the Lieutenant-Governor in the executive government of the Province of Bengal;

And whereas it is expedient to direct that the functions of the Lieutenant-Governor under enactments made by authorities in British India shall, with certain exceptions, be discharged by the Lieutenant-Governor in Council;

And whereas the sanction of the Governor General has been obtained under section 5[3] of the Indian Councils Act, 1892, to the passing of this Act;

It is hereby enacted as follows:—

1. This Act may be called the Bengal Local Government Act, 1911. Short title.

2.[4] *All functions of the Lieutenant-Governor of Bengal under any enactment made by any authority in British India or under any notification, order, scheme, rule, by-law or form issued, made or prescribed under any such enactment shall be discharged by the Lieutenant-Governor in Council:* Discharge of functions of Lieutenant-Governor by the Lieutenant-Governor in Council.

Provided that the Lieutenant-Governor[5] may, by written order with the previous sanction of the Governor General in Council, direct that any such function shall be discharged by the Lieutenant-Governor[6] personally.

3. *(1)* Save in cases where an officer is specially empowered by or under any enactment other than this Act to sign an order Signature of orders and proceedings.

of the Lieutenant-Governor in Council[1] or the Lieutenant-Governor[1], every order and proceeding of the Lieutenant-Governor in Council[1] or the Lieutenant-Govenor[1] shall be signed by a Secretary, Deputy Secretary, Under-Secretary or Assistant Secretary to the Government of Bengal.

(2) Every order and proceeding so signed shall be presumed to have been issued in conformity with—

(*a*) section 2, or

(*b*) the orders made by the Lieutenant-Governor[2] under the proviso to the section, or

(*c*) the rules and orders[3] made by the Lieutenant-Governor, with the consent of the Governor General in Council, *under section 3, sub section (3), of the Indian* Councils Act, 1909, for the more convenient transaction of business in his Executive Council,

as the case may be.

Validation of past orders and proceedings

4. All orders and proceedings under any enactment, notification, order, scheme, rule, by-law or form referred to in section 2, which were required by law to be issued by the Lieutenant-Governor of Bengal and have, before the commencement of this Act, been issued in the name of the Lieutenant-Governor of Bengal in Council, shall be deemed to be as valid as if they had been issued in the name of the Lieutenant-Governor.

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[1] Now the Governor in Council of Fort William in Bengal—*see* the Bengal Bihar and Orissa

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BENGAL ACT 5 OF 1911

(THE CALCUTTA IMPROVEMENT ACT, 1911)

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BENGAL ACT 5 OF 1911

(THE CALCUTTA IMPROVEMENT ACT 1911)[1]

(20th September 1911)

An Act to provide for the Improvement and Expansion of Calcutta.

Whereas it is expedient to make provision for the improvement and expansion of Calcutta by opening up congested areas laying out or altering streets providing open spaces for purposes of ventilation or recreation demolishing or constructing buildings acquiring land for the said purposes and for the re housing of persons of the poorer and working classes displaced by the execution of improvement schemes and otherwise as hereinafter appearing,

And whereas it is expedient that a Board of Trustees should be constituted and invested with special powers for carrying out the objects of this Act,

5C Vict And whereas the sanction of the Governor General has been obtained under section 5[2] of the Indian Councils Act 1892 to the provisions of this Act which affect Acts passed by the Governor General of India in Council

And whereas the sanction of the Governor General has also been obtained under section 43[3] of the Indian Councils Act
25 Vict 1861 to the enactment of the provisions of Chapter V of this Act relating to taxation

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LOCAL EXTENT —Th s Act (except sections 82 to 86) extends only to the Calcutta Mun c pal ty—*see* s 1 (*3*)
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BENGAL ACT 5 OF 1911

(THE CALCUTTA IMPROVEMENT ACT, 1911).[1]

(20th September, 1911.)

An Act to provide for the Improvement and Expansion of Calcutta.

Whereas it is expedient to make provision for the improvement and expansion of Calcutta by opening up congested areas, laying out or altering streets, providing open spaces for purposes of ventilation or recreation, demolishing or constructing buildings, acquiring land for the said purposes and for the re-housing of persons of the poorer and working classes displaced by the execution of improvement schemes, and otherwise as hereinafter appearing;

And whereas it is expedient that a Board of Trustees should be constituted and invested with special powers for carrying out the objects of this Act;

Vict, And whereas the sanction of the Governor General has been obtained, under section 5[2] of the Indian Councils Act, 1892, to the provisions of this Act which affect Acts passed by the Governor General of India in Council,

Vict, And whereas the sanction of the Governor General has also been obtained, under section 43[3] of the Indian Councils Act, 1861, to the enactment of the provisions of Chapter V of this Act, relating to taxation;

674, 676 to 749

LOCAL EXTENT—This Act (except sections 82 to 86) extends only to the Calcutta Municipality—see s 1 (3)

Section 89 originally extended throughout Bengal as constituted in the year 1911, i e, to (1) the present Presidency of Fort William in Bengal except Eastern Bengal, and (2) the Province

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It is hereby enacted as follows —

CHAPTER I

PRELIMINARY

Short title commencement and extent

1. *(1)* This Act may be called the Calcutta Improvement Act 1911

(2) It shall come into force on such day [1] as the Local Government may by notification direct

(3) Except as otherwise hereinafter provided this Act shall extend only to the Calcutta Municipality but any provision which extends only to the Calcutta Municipality may be extended by the Local Government entirely or in part by notification,[2] under the procedure prescribed by section 148 to any specified area in the neighbourhood of that Municipality

Definitions

2. In this Act unless there is anything repugnant in the subject or context —

- (a) the Board means the Board of Trustees for the Improvement of Calcutta constituted under this Act
- (b) the Calcutta Municipality means Calcutta as defined in clause (7) of section 3 of the Calcutta Municipal Act 1899 [3]
- (c) Chairman means the Chairman of the Board
- (d) the Corporation means the Corporation of Calcutta constituted under the said Calcutta Municipal Act 1899 [3]
- (e) the General Committee means the General Committee constituted under the said Calcutta Municipal Act 1899 [3]
- (f) improvement scheme means a *general improvement* scheme or a street scheme or both
- (g) land has the same meaning as in clause (a) of section 3 [4] of the Land Acquisition Act 1894
- (h) municipal assessment book means the assessment book kept under section 164 of the Calcutta Municipal Act 1899 [3] or the valuation and rating list prepared under section 103 of the Bengal Municipal Act 1884 [5]
- (i) notification means a notification published in the Calcutta Gazette

[1] i e the 2nd January 1912—*see* notification No 1148 dated the 30th October 1911 in Calcutta Gazette 1911 Pt IB p 196

[2] For a reference to a notification issued under section 1(3) *see* the Bengal Local Statutory Rules and Orders 1912 Vol I Pt VI and for a further notification *see* Calcutta Gazette 1911 Pt IB p 171

[3] Printed ante p 219

[4] Printed in the General Act 1887 9 Ed 1909 p 363

[5] Printed in Vol II of this Code

(*k*) "Secretary to the Board" means the person for the time being appointed by the Board to discharge the functions of Secretary to the Board;

(*l*) the "Tribunal" means the Tribunal constituted under section 72;

(*m*) "Trustee" means a Member of the Board; and

(*n*) the expressions "building line," "drain," "public street" and "street alignment" have the same meaning as in clauses (*3*), (*16*), (*37*) and (*17*), respectively, of section 3 of the Calcutta Municipal Act, 1899[1]. Act 3

CHAPTER II

THE BOARD OF TRUSTEES.

Constitution of the Board.

3. The duty of carrying out the provisions of this Act shall, subject to the conditions and limitations hereinafter contained, be vested in a Board, to be called, "The Trustees for the Improvement of Calcutta"; and such Board shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued. *Creation and incorporation of Board*

4. The Board shall consist of eleven Trustees, namely,— *Constitution of the Board*

(*a*) a Chairman,

(*b*) the Chairman of the Corporation,

(*c*) three other members of the Corporation,

(*d*) a member of the Bengal Chamber of Commerce,

(*e*) a member of the Bengal National Chamber of Commerce, and

(*f*) four other persons.

5. The Chairman and the four persons referred to in clause (*f*) of section 4 shall be appointed by the Local Government by notification. *Appointment of Trustees*

6. The Chairman of the Corporation shall be a Trustee *ex officio*. *Ex officio Trustee*

7. (*1*) The three members of the Corporation referred to in clause (*c*) of section 4 shall be elected as follows, namely,— *Election of other Trustees*

(*a*) one by the Corporation,

(*b*) one by the Ward Commissioners, and

(*c*) one by the Commissioners appointed under sub-section (*2*) of section 8 of the Calcutta Municipal Act, 1899[1]. Act 3 of

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[1] Printed *ante*, p. 219

(2) The member of the Bengal Chamber of Commerce referred to in clause (d) of section 4 shall be elected by that Chamber.

(3) The member of the Bengal National Chamber of Commerce referred to in clause (e) of section 4 shall be elected by that Chamber.

(4) The Secretary to the Corporation, the Secretary to the Bengal Chamber of Commerce and the Secretary to the Bengal National Chamber of Commerce shall respectively make a return, in duplicate, to the Chairman, setting forth the name in full of every person elected under this section, and the said return shall be published by notification under the signature of the Chairman.

Appointment in default of election.

8. If any of the bodies of electors referred to in section 7 does not, by such date as may be prescribed by rule made in that behalf under section 137, elect a person to be a Trustee, the Local Government shall, by notification, appoint a person belonging to such body to be a Trustee, and any person so appointed shall be deemed to be a Trustee as if he had been duly elected by such body.

Disqualifications for being appointed or elected a Trustee.

9. (1) A person shall be disqualified for being appointed or elected a Trustee if he—

(a) has been sentenced by any Court for any non-bailable offence[1], such sentence not having been subsequently reversed or quashed, and such person's disqualification on account of such sentence not having been removed by an order which the Local Government is hereby empowered to make, if it thinks fit, in this behalf, or

(b) is an undischarged insolvent[2], or

(c) holds any office or place of profit under the Board, or

(d) has directly or indirectly, by himself or by any partner, employer or employee, any share or interest in any contract or employment with, by, or on behalf of, the Board, or

(e) is a director, or a secretary, manager or other salaried officer, of any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of, the Board.

(2) But a person shall not be disqualified as aforesaid, or be deemed to have any share or interest in such contract or employment as aforesaid, by reason only of his having a share or interest in—

(i) any sale, purchase, lease or exchange of land, or any agreement for the same, or

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[1] [illegible] Code of Criminal Procedure, 1898 [illegible] 40 [illegible]

[2] [illegible] Act 1907 (3 of 1907), ss. 41 and 39, printed in the General Acts, [illegible]

(ii) any agreement for the loan of money, or any security for the payment of money only ; or

(iii) any newspaper in which any advertisement relating to the affairs of the Board is inserted ; or

(iv) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one financial year of any article in which he trades,

or by reason only of his having a share or interest, otherwise than as director, or secretary, manager or other salaried officer, in any incorporated company which has any share or interest in any contract or employment with, by, or on behalf of, the Board.

10. While any person is holding the office of Chairman he shall not hold any other salaried office, and, subject to any exceptions permitted by the Local Government, shall devote his whole time and attention to his duties under this Act. The Chairman to be a whole time officer

11. (1) The Chairman shall receive such monthly salary, not exceeding three thousand rupees, as may be fixed by the Local Government. Remuneration of Chairman

Provided that, if the Chairman, after having held his office for three years, is re-appointed for a further term of not less than two years, the Local Government may direct that his monthly salary be increased to any sum not exceeding three thousand five hundred rupees.

(2) The word "salary," as used in this section, excludes allowances to which the Chairman may be entitled and any contribution payable on his account under any general or special orders of the Government for regulating the transfer of Government servants to foreign service.

(3) The Local Government may, if it thinks fit, direct the payment to the Chairman of a house-rent and conveyance allowance, not exceeding five hundred rupees *per mensem*, in addition to his salary.

12. (1) The Local Government may, after consultation with the Board, grant leave of absence to the Chairman, or depute him to other duties, for such period as it thinks fit. Leave of absence or deputation of the Chairman

(2) The allowance (if any) to be paid to the Chairman while absent on leave or deputation shall be such amount not exceeding his salary, as may be fixed by the Local Government.

Provided that, if the Chairman is a Government officer, the amount of such allowance shall be such as he may be entitled to under any general or special orders of the Government for regulating the transfer of Government servants to foreign service.

13. (1) Whenever the Chairman is granted leave of absence or deputed to other duties, the Local Government may appoint a person to act as Chairman. Appointment, etc. of acting Chairman

(2) The salary and house-rent and conveyance allowance (if any) of any person appointed to act as Chairman shall be

fixed by the Local Government, subject to the provisions of section 11

(3) Any person appointed to act as Chairman shall exercise the powers and perform the duties conferred and imposed by and under this Act on the Chairman, and shall be subject to the same liabilities, restrictions and conditions as the Chairman

Leave of absence to other Trustees

14. The Board may permit any Trustee, other than the Chairman or the Chairman of the Corporation, to absent himself from meetings of the Board for any period not exceeding six months

Removal of Trustees

15. (1) The Local Government may, by notification, declare that any Trustee shall cease to be a Trustee—

(a) if he has acted in contravention of section 23, or

(b) if he has been absent from, or is unable to attend, the meetings of the Board for any period exceeding six consecutive months, or

(c) if he has, without the permission of the Board, been absent from the meetings of the Board for any period exceeding three consecutive months, or

(d) if he is a salaried servant of the Government, and if his continuance in office as a Trustee is, in the opinion of the Local Government, undesirable

(2) The Local Government shall, by notification, declare that a Trustee shall cease to be a Trustee—

(i) if he has become disqualified for appointment or election as a Trustee for any of the reasons mentioned in section 9, or

(ii) if he was elected or appointed as being a member of the Corporation, the Bengal Chamber of Commerce or the Bengal National Chamber of Commerce and if he is, at the date of such notification, no longer a member of the Corporation or such Chamber, as the case may be

(3) If at any time it appears to the Local Government that the Chairman has shown himself to be unsuitable for his office or has been guilty of any misconduct or neglect which renders his removal expedient, it may, by notification, declare that the Chairman shall cease to hold office as such

Filling of casual vacancies in certain cases

16. If any Trustee be permitted by the Board to absent himself from meetings of the Board for any period exceeding three months

or if any Trustee, other than the Chairman of the Corporation dies or resigns the office of Trustee, or ceases to hold the office of Trustee in pursuance of a notification published under section 15,

the vacancy shall be filled, within one month, by a fresh appointment or election under section 5, section 7 or section 8, as the case may be.

17. (*1*) The term of office of the first Trustees appointed or elected under section 5, section 7 or section 8, other than the Chairman, shall commence on such day as may be appointed by the Local Government. Term of office of Trustees

(*2*) Subject to the provisions of section 15, the term of office of Trustees (other than the Chairman of the Corporation) shall be as follows:—

(*a*) the Chairman—such period, not less than three years, as may be fixed by the Local Government;

(*b*) a Trustee appointed or elected in pursuance of section 16 in the place of a Trustee who has been permitted to absent himself from meetings of the Board—the period of the absence of the latter Trustee;

(*c*) other Trustees—three years.

(*3*) Any Trustee shall, if not disqualified for any of the reasons mentioned in section 9, be eligible for re-appointment or re-election at the end of his term of office.

Conduct of Business

18. The Board shall meet, and shall from time to time make such arrangements with respect to the place, day, hour, notice, management and adjournment of their meetings, as they may think fit subject to the following provisions, namely:— Meetings of Board

(*a*) an ordinary meeting shall be held once at least in every month,

(*b*) the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than two other Trustees, call a special meeting,

(*c*) the Chairman shall attend every meeting of the Board unless absent on leave or prevented by sickness or other reasonable cause;

(*d*) no business shall be transacted at any meeting unless at least half of the existing number of the Trustees are present from the beginning to the end of the meeting,

(*e*) the person to preside at a meeting shall be the Chairman, or, in his absence from any meeting, the Trustees present shall choose one of their number to preside;

(*f*) all questions shall be decided by a majority of votes of the Trustees present, the person presiding having a

second or casting vote in all cases of equality of votes,

(g) if a poll be demanded, the names of the Trustees voting, and the nature of their votes shall be recorded by the person presiding,

(h) minutes of the names of the Trustees present, and of the proceedings, at each meeting shall be kept in a book to be provided for the purpose, which shall be signed at the next ensuing meeting by the person presiding at such meeting and shall be open to inspection by any Trustee during office hours

Temporary association of members with the Board for particular purposes

19. *(1)* The Board may associate with themselves, in such manner and for such period as may be prescribed by rules made under section 138, any persons whose assistance or advice they may desire in carrying out any of the provisions of this Act

(2) A person associated with themselves by the Board under sub-section *(1)* for any purpose shall have a right to take part in the discussions of the Board relative to that purpose, but shall not have a right to vote at a meeting of the Board, and shall not be a member of the Board for any other purpose

Constitution and function of Committees

20. *(1)* The Board may from time to time appoint Committees, consisting of such persons of any of the following classes as they may think fit, namely:—

(i) Trustees,

(ii) persons associated with the Board under section 19,

(iii) other persons whose assistance or advice the Board may desire as members of Committees

Provided that no Committee shall consist of less than three persons

(2) The Board may—

(a) refer to such Committees, for inquiry and report, any matter relating to any of the purposes of this Act, and

(b) delegate to such Committees by specific resolution, and subject to any rules made under section 138, any of the powers or duties of the Board

(3) The Board may at any time dissolve, or, subject to the provisions of sub-section *(1)*, alter the constitution of, any such Committee

(4) Every such Committee shall conform to any instructions from time to time given to them by the Board.

(5) All proceedings of any such Committee shall be subject to confirmation by the Board.

(*Chapter II.—The Board of Trustees.—Secs. 21-23.*)

Meetings of Committees

21. (*1*) Committees appointed under section 20 may meet and adjourn as they think proper, but the Chairman may, whenever he thinks fit, call a special meeting of any Committee, and shall call a special meeting of any Committee upon the written request of not less than two members thereof.

(*2*) The person to preside at a meeting of a Committee shall be the Chairman if he is a member of the Committee, or, if he is not a member, then the members present shall choose one of their number to preside.

(*3*) No business shall be transacted at any meeting of a Committee unless at least half the number of the members of the Committee are present from the beginning to the end of the meeting.

(*4*) All questions at any meeting of a Committee shall be decided by a majority of votes of the members present, the person presiding having a second or casting vote in all cases of equality of votes.

Fees for attendance at meetings.

22. Every Trustee (other than the Chairman), and every person associated with the Board under section 19, shall be entitled to receive a fee of twenty rupees, and every member of a Committee shall be entitled to receive a fee of ten rupees, for each meeting of the Board or the Committee—

(*i*) at which a quorum is present and business is transacted, and

(*ii*) which he attends from the beginning to the end thereof, or for such period as the person presiding at the meeting may consider sufficient to justify the payment of the fee:

Provided that the aggregate amount of fees payable to any person in respect of meetings of any kind held during any month shall not exceed such sum as may be prescribed by any rule made under section 137 in this behalf.

Trustees and associated members of Board or Committee not to take part in proceedings in which they are personally interested.

23. (*1*) A Trustee who—

(*a*) has, directly or indirectly, by himself or by any partner, employer or employe, any such share or interest as is described in sub-section (*2*) of section 9, in respect of any matter, or

(*b*) has acted professionally, in relation to any matter, on behalf of any person having therein any such share or interest as aforesaid,

shall not vote or take any other part in any proceeding of the Board or any Committee relating to such matter.

(*2*) If any Trustee, or any person associated with the Board under section 19, or any other member of a Committee appointed under this Act, has, directly or indirectly, any beneficial

interest in any land situated in an area comprised in any improvement scheme framed under this Act, or in an area in which it is proposed to acquire land for any of the purposes of this Act,—

(*i*) he shall, before taking part [illegible] meeting of the Board or an[illegible] such area, inform the person [illegible] of the nature of such interest,

(*ii*) he shall not vote at any meeting of the Board or any Committee upon any resolution or question relating to such land, and

(*iii*) he shall not take any other part in any proceeding at a meeting of the Board or any Committee relating to such area if the person presiding at the meeting considers it inexpedient that he should do so.

Power to make and perform contracts

24. The Board may enter into and perform all such contracts as they may consider necessary or expedient for carrying out any of the purposes of this Act

Execution of contracts and approval of estimates

25. (*1*) Every such contract shall be made on behalf of the Board by the Chairman

Provided that—

(*a*) a contract involving an expenditure exceeding one thousand rupees and not exceeding one lakh of rupees shall not be made by the Chairman without the previous sanction of the Board ; and

(*b*) a contract involving an expenditure exceeding one lakh of rupees shall not be made by the Chairman without the previous sanction of the Board and the *Local Government.*

(*2*) Every estimate for the expenditure of any sum for carrying out any of the purposes of this Act shall be subject to the approval of the authority who is empowered by sub-section (*1*) to make or sanction the making of a contract involving the expenditure of a like sum

(*3*) Sub-sections (*1*) and (*2*) shall apply to every variation or abandonment of a contract or estimate, as well as to an original contract or estimate.

Further provisions as to execution of contracts and provisions as to seal of Board

26. (*1*) Every contract made by the Chairman on behalf of the Board shall be entered into in such manner and form as would bind the Chairman if such contract were made on his own behalf, except that the common seal of the Board shall be used (where necessary); and every such contract may in the like manner and form be varied or discharged.

(*2*) Every contract for the execution of any work or the supply of any materials or goods which will involve an

expenditure exceeding one thousand rupees shall be in writing, and shall be sealed.

(3) The common seal of the Board shall remain in the custody of the Secretary to the Board, and shall not be affixed to any contract or other instrument except in the presence of a Trustee (other than the Chairman), who shall attach his signature to the contract or instrument in token that the same was sealed in his presence.

(4) The signature of the said Trustee shall be in addition to the signature of any witness to the execution of such contract or instrument.

(5) A contract not executed as provided in this section shall not be binding on the Board.

27. (*1*) At least seven days before the Chairman enters into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees, he shall give notice by advertisement in local newspapers inviting tenders for such contract. Tenders

(2) In every such case the Chairman shall place before the Board the specifications, conditions and estimates and all the tenders received, specifying the particular tender (if any) which he proposes to accept.

(3) In every case in which the acceptance of a tender would involve an expenditure exceeding one *lakh* of rupees, the Board shall submit to the Local Government the specifications, conditions and estimates, and all the tenders received, specifying the particular tender (if any) the acceptance of which they proposed to sanction.

(4) Neither the Board nor the Local Government shall be bound to sanction the acceptance of any tender which has been made, but the Board, within the pecuniary limits of their powers, as prescribed in section 25, sub-section (*1*), or the Local Government, may sanction the acceptance of any of such tenders which appears to them, upon a view of all the circumstances, to be the most advantageous, or may direct the rejection of all the tenders submitted to them.

28. The Chairman shall take sufficient security for the due performance of every contract involving an expenditure exceeding one thousand rupees. Security for performance of contract

29. (*1*) The Chairman shall forward to the Local Government a copy of the minutes of the proceedings of each meeting of the Board, within ten days from the date on which the minutes of the proceedings of such meeting were signed as prescribed in section 18, clause (*h*). Supply of documents and information to the Government

(2) If the Local Government so directs in any case, the Chairman shall forward to it a copy of all papers which were laid before the Board for consideration at any meeting.

(3) The Local Government may require the Chairman to furnish it with—

(a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Board, or

(b) a report on any such matter, or

(c) a copy of any document in the charge of the Chairman

Officers and Servants

Statement of strength and remuneration of staff

30. The Board shall from time to time prepare, and shall maintain, a statement showing—

(a) the number, designations and grades of the officers and servants (other than employes who are paid by the day or whose pay is charged to temporary work) whom they consider it necessary and proper to employ for the purposes of this Act,

(b) the amount and nature of the salary, fees and allowances to be paid to each such officer and servant, and

(c) the contributions payable under section 146 in respect of each such officer and servant

Board to make rules

31. The Board shall from time to time make rules—

(a) fixing the amount and nature of the security to be furnished by any officer or servant of the Board from whom it may be deemed expedient to require security,

(b) for regulating the grant of leave of absence, leave-allowances and acting-allowances to the officers and servants of the Board; and

(c) for establishing and maintaining a provident or annuity fund, for compelling all or any of the officers or servants of the Board (other than any servant of the Government in respect of whom a contribution is paid under section 146) to contribute to such fund, at such rates and subject to such conditions as may be prescribed by such rules, and for supplementing such contributions out of the funds of the Board:

Provided that a Government servant employed as an officer or servant of the Board shall not be entitled to leave or leave-allowances otherwise than as may be prescribed in any general or special orders of the Government for regulating the transfer of Government servants to foreign service.

(*Chapter II.—The Board of Trustees.—Secs. 32-35.*)

32. Subject to any directions contained in any statement prepared under section 30 and any rules made under section 31, and for the time being in force, the power of appointing, promoting and granting leave to officers and servants of the Board, and reducing, suspending or dismissing them for misconduct, and dispensing with their services for any reason other than misconduct, shall be vested— Powers of appointment, etc., in whom vested.

(*a*) in the case of officers and servants whose monthly salary does not exceed three hundred rupees—in the Chairman, and

(*b*) in other cases—in the Board

Provided that any officer or servant in receipt of a monthly salary exceeding one hundred rupees who is reduced, suspended or dismissed by the Chairman may appeal to the Board, whose decision shall be final

33. (*a*) All statements prepared under section 30 so far as they relate to offices carrying a salary of more than one thousand rupees *per mensem*, Sanction of Local Government required to certain statements rules and orders

(*b*) all rules made under clause (*b*) or clause (*c*) of section 31, and

(*c*) all orders passed by the Board under section 32, and relating to any officer appointed to hold an office carrying a salary of more than one thousand rupees *per mensem*, except orders granting leave to, or suspending, any such officer,

shall be subject to the previous sanction of the Local Government.

34. The Chairman shall exercise supervision and control over the acts and proceedings of all officers and servants of the Board, and, subject to the foregoing sections, shall dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances Control by Chairman

35. (*1*) The Chairman may, by general or special order in writing, delegate to any officer of the Board any of the Chairman's powers, duties or functions under this Act or any rule made hereunder, except those conferred or imposed upon or vested in him by sections 18, 21 29, 55, 108, 112, 116, 118, 154 and 158 Delegation of certain of Chairman's functions

Provided as follows —

(*a*) the Chairman shall not delegate his power under section 25 to make on behalf of the Board any contract involving an expenditure exceeding one thousand rupees;

(*b*) the Chairman shall not delegate his power under section 32 to make appointments to offices carrying a salary of more than one hundred rupees *per mensem*;

(c) the Chairman shall not delegate to any officer his power under section 32 to grant leave to, or to reduce, suspend, dismiss, or dispense with the services of, any employé unless such employé was appointed by such officer by virtue of a delegation of the Chairman's powers of appointment conferred by that section.

(2) The exercise or discharge by any officer of any powers, duties or functions delegated to him under sub-section (*1*) shall be subject to such conditions and limitations (if any) as may be prescribed in the said order, and also to control and revision by the Chairman.

CHAPTER III

IMPROVEMENT SCHEMES AND RE-HOUSING SCHEMES

When general improvement scheme may be framed.

36. Whenever it appears to the Board, whether upon an official representation made under section 37 or without such a representation,—

(a) that any buildings in any area which are used, or are intended or are likely to be used as dwelling-places, are unfit for human habitation, or

(b) that danger to the health of the inhabitants of buildings in any area, or in any neighbouring buildings, is caused by—

(i) the narrowness, closeness and bad arrangement and condition of streets or buildings or groups of buildings in such area, or

(ii) the want of light, air, ventilation or proper conveniences in such area, or

(iii) any other sanitary defects in such area,

and that the most satisfactory method of dealing with the evils connected with such buildings and the sanitary defects in such area is a general improvement scheme for the re-arrangement and re-construction of the streets and buildings, or some of them within such area,

the Board may pass a resolution to the effect that such area is an unhealthy area, and that a general improvement scheme ought to be framed in respect of such area,

and may then proceed to frame such a scheme.

37. (*1*) An official representation referred to in section 36 may be made by the Corporation— Authority for making an official representation for a general improvement scheme

(*a*) of their own motion, or

(*b*) on a written complaint by the Health Officer of the Corporation; or

(*c*) in respect of any area comprised in a municipal ward,—on a written complaint signed by twenty-five or more residents of such ward who are liable to pay either the owner's share or the occupier's share of the consolidated rate leviable under the Calcutta Municipality Act, 1899[1] Act 3 of

(*2*) If the Corporation decide not to make an official representation on any complaint made to them under clause (*b*) or clause (*c*), they shall cause a copy of such complaint to be sent to the Board with a statement of the reasons for their decision

38. (*1*) The Board shall consider every official representation made under section 37 and, if satisfied as to the truth thereof and to the sufficiency of their resources shall decide whether a general improvement scheme to carry such representation into effect should be framed forthwith or not, and shall forthwith intimate their decision to the Corporation Consideration of official representations

(*2*) If the Board decide that it is not necessary or expedient to frame a general improvement scheme forthwith, they shall inform the Corporation of the reasons for their decision

(*3*) If the Board fail, for a period of twelve months after the receipt of any official representation made under section 37 to intimate their decision thereon to the Corporation,

or if the Board intimate to the Corporation their decision that it is not necessary or expedient to frame a general improvement scheme forthwith

the Corporation may, if they think fit, refer the matter to the Local Government

(*4*) The Local Government shall consider every reference made to it under sub-section (*3*), and

(*a*) if it considers that the Board ought under all the circumstances, to have passed a decision within the period mentioned in sub-section (*3*), shall direct the Board to pass a decision within such further period as the Local Government may think reasonable, or

(*b*) if it considers that it is under all the circumstances, expedient that a scheme should forthwith be framed, shall direct the Board to proceed forthwith to frame a scheme

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[1] Printed *ante* p 219

(5) The Board shall comply with every direction given by the Local Government under sub-section (4)

When street scheme may be framed

39. Whenever the Board are of opinion that, for the purpose of—

(a) providing building-sites, or

(b) remedying defective ventilation, or

(c) creating new, or improving existing, means of communication and facilities for traffic, or

(d) affording better facilities for conservancy,

it is expedient to lay out new streets or to alter existing streets (including bridges, causeways and culverts), the Board may pass a resolution to that effect, and shall then proceed to frame a street scheme for such area as they may think fit

Matters to be considered when framing improvement schemes

40. When framing an improvement scheme in respect of any area, regard shall be had to—

(a) the nature and the conditions of neighbouring areas and of Calcutta as a whole,

(b) the several directions in which the expansion of Calcutta appears likely to take place, and

(c) the likelihood of improvement schemes being required for other parts of Calcutta

Matters which must be provided for in improvement schemes

41. Every improvement scheme shall provide for —

(a) the acquisition by the Board of any land, in the area comprised in the scheme, which will, in their opinion, be required for the execution of the scheme,

(b) the laying out or re-laying out of the land in the said area,

(c) such demolition, alteration or reconstruction of buildings, situated on land which it is proposed to acquire in the said area, as the Board may think necessary,

(d) the construction of any buildings which the Board may consider it necessary to erect for any purpose other than sale or hire,

(e) the laying out or alteration of streets (including bridges, causeways and culverts), if required, and

(f) the levelling, paving, metalling, flagging, channelling, sewering and draining of the said streets, and the provision therein of water, lighting and other sanitary conveniences ordinarily provided in a Municipality.

(Chapter III —Improvement Schemes and Re-housing Schemes —Secs. 42-45.)

42. Any improvement scheme may provide for— | Matters which may be provided for in improvement schemes

(a) the acquisition by the Board of any land, in the area comprised in the scheme, which will, in their opinion, be affected by the execution of the scheme,

(b) raising, lowering or levelling any land in the area comprised in the scheme,

(c) the formation or retention of open spaces, and

(d) any other matters, consistent with this Act, which the Board may think fit

43. (1) When any improvement scheme has been framed, the Board shall prepare a notice, stating— | Preparation, publication and transmission of notice as to improvement scheme, and supply of documents to applicants

(a) the fact that the scheme has been framed

(b) the boundaries of the area comprised in the scheme, and

(c) the place at which particulars of the scheme, a map of the area comprised in the scheme, and a statement of the land which it is proposed to acquire, may be seen at reasonable hours

(2) The Board shall—

(i) cause the said notice to be published weekly for three consecutive weeks in the Calcutta Gazette and in local newspapers, with a statement of the period within which objections will be received, and

(ii) send a copy of the notice to the Chairman of the Corporation and to the Chairman of any Municipality constituted under the Bengal Municipal Act, 1884[1], in which any portion of the area comprised in the scheme is situated

(3) The Chairman shall cause copies of all documents referred to in clause (c) of sub-section (1) to be delivered to any applicant on payment of such fee as may be prescribed by rule made under section 138

44. The Chairman of the Corporation, and the Chairman of any Municipality to whom a copy of a notice has been sent under clause (ii) of section 43, shall, within a period of sixty days from the receipt of the said copy, forward to the Board any representation which the Corporation or Municipality may think fit to make with regard to the scheme | Transmission to Board of representation by Corporation or Municipality as to improvement scheme

45. (1) During the thirty days next following the first day on which any notice is published under section 43 in respect of any improvement scheme, the Board shall serve a notice on— | Service of notice as to proposed acquisition of land

(i) every person whose name appears in the municipal assessment-book as being primarily liable to pay the

[1] Printed in Vol II of this Code

(5) The Board shall comply with every direction given by the Local Government under sub-section (4).

When street scheme may be framed

39. *Whenever the Board are of opinion that, for the* purpose of—

(*a*) providing building-sites, or

(*b*) remedying defective ventilation, or

(*c*) creating new, or improving existing, means of communication and facilities for traffic, or

(*d*) affording better facilities for conservancy,

it is expedient to lay out new streets or to alter existing streets (including bridges, causeways and culverts), the Board may pass a resolution to that effect, and shall then proceed to frame a street scheme for such area as they may think fit

Matters to be considered when framing improvement schemes

40. When framing an improvement scheme in respect of any area, regard shall be had to—

(*a*) the nature and the conditions of neighbouring areas and of Calcutta as a whole;

(*b*) *the several directions in which the expansion of Calcutta appears likely to take place; and*

(*c*) the likelihood of improvement schemes being required for other parts of Calcutta

Matters which must be provided for in improvement schemes

41. Every improvement scheme shall provide for —

(*a*) the acquisition by the Board of any land, in the area comprised in the scheme, which will, in their opinion, be required for the execution of the scheme,

(*b*) the laying out or re-laying out of the land in the said area,

(*c*) such demolition, alteration or reconstruction of buildings, situated on land which it is proposed to acquire in the said area, as the Board may think necessary,

(*d*) the construction of any buildings which the Board may consider it necessary to erect for any purpose other than sale or hire;

(*e*) the laying out or alteration of streets (including bridges, causeways and culverts), if required; and

(*f*) the levelling, paving, metalling, flagging, channelling, sewering and draining of the said streets, and the provision therein of water, lighting and other sanitary conveniences ordinarily provided in a Municipality.

(*Chapter III.—Improvement Schemes and Re-housing Schemes.—Secs. 48-52.*)

(*c*) a statement of objections (if any) received under section 13;

(*d*) any representation received under section 14;

(*e*) a list of the names of all persons (if any) who have dissented, under section 15, clause (*b*), from the proposed acquisition of their land, and a statement of the reasons given for such dissent; and

(*f*) a statement of the arrangements made or proposed by the Board for the re-housing of persons of the poorer and working classes who are likely to be displaced by the execution of the scheme.

(*3*) When any application has been submitted to the Local Government under sub-section (*1*) the Board shall cause notice of the fact to be published for two consecutive weeks in the Calcutta Gazette and in local newspapers.

Power to sanction or reject improvement scheme

48. The Local Government may sanction[1], either with or without modification, or may refuse to sanction, any improvement scheme submitted to it under section 47.

Notification of sanction to improvement scheme

49. (*1*) Whenever the Local Government sanctions an improvement scheme, it shall announce the fact by notification, and the Board shall forthwith proceed to execute the scheme.

(*2*) The publication of a notification under sub-section (*1*), in respect of any scheme, shall be conclusive evidence that the scheme has been duly framed and sanctioned.

Alteration of improvement scheme after sanction

50. At any time after any improvement scheme has been sanctioned by the Local Government, and before it has been carried into execution, the Board may alter it:

Provided as follows:—

(*a*) if any alteration is estimated to increase the estimated net cost of executing a scheme by more than five *per cent* of such cost, such alteration shall not be made without the previous sanction of the Local Government,

(*b*) if any alteration involves the acquisition, otherwise than by agreement, of any land the acquisition of which has not been sanctioned by the Local Government, the procedure prescribed in the foregoing sections of this Chapter shall, so far as applicable, be followed, as if the alteration were a separate scheme

Combination of improvement schemes

51. Any number of areas in respect of which improvement schemes have been, or are proposed to be, framed, may at any time be included in one combined scheme.

Re-housing persons displaced by improvement schemes

52. (*1*) The Board may frame schemes (herein called re-housing schemes) for the construction, maintenance and

[1] For notifications sanctioning certain street schemes, *see* Calcutta Gazette, 1913, Pt IB, pp 102, 150, 172, and *ibid*, 1914, Pt IB, pp 22, 189, 406, 407

management of such and so many dwellings and shops as they may consider ought to be provided for persons of the poorer and working classes who—

(a) are displaced by the execution of any improvement scheme sanctioned under this Act, or

(b) are likely to be displaced by the execution of any improvement scheme which it is intended to frame or to submit to the Local Government for sanction, under this Act.

(2) Every re-housing scheme shall be submitted to the Local Government who may either sanction it, with or without modification, or refuse to sanction it.

(3) The Board shall not themselves construct dwellings or shops under a re-housing scheme unless they are satisfied, after due inquiry, that no other person is willing and able to construct them and is prepared to construct, maintain and manage them under the control of the Board.

Width of streets.

53. No street laid out or altered by the Board shall be of less width than—

(a) forty feet, if the street be intended for carriage traffic, or

(b) twenty feet if the street be intended for foot traffic only:

Provided as follows:—

(i) the width of an existing street need not be increased to the minimum required by this section, if the Board consider it impracticable to do so;

(ii) nothing in this section shall be deemed to prevent the Board from laying out service passages for sanitary purposes of any width less than twenty feet.

Transfer to Board for purposes of improvement scheme of building or land vested in Corporation or Municipality.

54. (1) Whenever any building, or any street, square or other land, or any part thereof, which—

(a) is situated in the Calcutta Municipality and is vested in the Corporation, or

(b) is situated in any part of any Municipality constituted under the Bengal Municipal Act, 1884[1], in which this section is for the time being in force, and is vested in the Commissioners of that Municipality, Ben. 188

is required for executing any improvement scheme, the Board shall give notice accordingly to the Chairman of the Corporation or the Chairman of such Municipality, as the case may be.

[1] Printed in Vol. II of this Code.

and such building street square land or part shall there-
pon vest in the Board subject in the case of any building or
ny land (not being a street or square) to the payment to the
orporation or to such Commissioners, as the case may be of
ich sum as may be required to compensate them for actual loss
sulting from the transfer thereof to the Board

(2) If any question or dispute arises as to the sufficiency
f the compensation paid or proposed to be paid under sub-
ection (*1*) the matter shall be referred to the Local Govern-
nent whose decision shall be final

55. (*1*) Whenever any street or square or part thereof
hich is not vested in the Board or in the Corporation or in
he Commissioners of any Municipality constituted under the
Bengal Municipal Act 1884[1] is required for executing any
mprovement scheme the Board shall cause to be affixed in a
onspicuous place in or near such street square or part a notice
igned by the Chairman and

[illegible]

(*a*) stating the purpose for which the street square or part is required and

(*b*) declaring that the Board will on or after a date to be specified in the notice take over charge of such street square or part from the owner thereof

and shall simultaneously send a copy of such notice to the
owner of such street square or part

(2) After considering and deciding all objections (if any)
eceived in writing before the date so specified the Board may
ake over charge of such street square or part from the owner
hereof and the same shall thereupon vest in the Board

(3) When the Board alter or close any street or square or
part thereof which has vested in them under sub-section (*2*)
hey shall pay reasonable compensation to the previous owner
for the loss of his rights therein

(*4*) If the alteration or closing of any such street square
or part causes damage or substantial inconvenience to owners
of property adjacent thereto or to residents in the neighbour-
hood the Board—

(*i*) shall forthwith provide some other reasonable means of access for the use of persons who were entitled to use such street square or part as a means of access to any property or place and

(*ii*) if the provision of such means of access does not sufficiently compensate any such owner or resident for such damage or inconvenience shall also pay him reasonable compensation in money

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[1] Printed in Vol II of this Code

(*Chapter III.—Improvement Schemes and Re-housing Schemes.—Secs. 56-60.*)

Provision of drain or water work to replace another situated on land vested in the Board under section 54 or section 55

56. (*1*) When any building, or any street, square or other land, or any part thereof, has vested in the Board under section 54 or section 55, no municipal drain or water-work therein shall vest in the Board until another drain or water-work (as the case may be), if required, has been provided by the Board, to the satisfaction of the General Committee or of the Commissioners of the Municipality constituted under the Bengal Municipal Act, 1884[1], as the case may be, in place of the former drain or work

(*2*) If any question or dispute arises as to whether another drain or water-work is required, or as to the sufficiency of any drain or water-work provided by the Board, under sub-section (*1*), the matter shall be referred to the Local Government, whose decision shall be final

Bar to application of certain sections of the Calcutta Municipal Act, 1899, to streets vested in the Board

57. (*1*) Sections 337, 338 and 355, and clause (*c*) of section 354, of the Calcutta Municipal Act, 1899[2], shall not apply to any street which is vested in the Board.

(*2*) Sections 345 and 346 of the said Act[3] shall not apply when any drain, pavement or surface referred to in the said section 345 is opened or broken up by the Board, or when any public street is under construction by the Board

Repair and watering of streets vested in the Board

58. Whenever the Board allow any street vested in them to be used for public traffic,—

(*a*) they shall, as far as practicable, keep the street in good repair and do all things necessary for the safety and convenience of persons using it, and

(*b*) they shall cause the street to be watered, if they consider it necessary to do so for the public convenience

Guarding and lighting when street vested in the Board is opened or broken up or when street is under construction and speedy completion of work

59. Whenever any drain in, or the pavement or surface of, any street vested in the Board is opened or broken up by the Board for the purpose of carrying on any work,

or whenever the Board allow any street which they have under construction to be used for public traffic,

the Board shall cause the place to be fenced and guarded and to be sufficiently lighted during the night, and shall take proper precautions for guarding against accident by shoring up and protecting adjoining buildings,

and shall with all convenient speed, complete the said work, fill in the ground and repair the said drain, pavement or surface, and carry away the rubbish occasioned thereby or complete the construction of the said street as the case may be.

Prevention of restriction of traffic in street vested in the Board during progress of work

60. (*1*) When any work referred to in section 59 is being executed by the Board in any public street vested in them, or when any other work which may lawfully be done is being executed by the Board in any street vested in them, the

[1] Printed in Vol. II of this Code
[2] Printed ante p. 219
[3] The Calcutta Municipal Act 1899. It is printed ante p. 219

Board may direct that such street shall, during the progress of such work, be either wholly or partially closed to traffic generally or to traffic of any specified description.

(2) When any such direction has been given, the Board shall set up in a conspicuous position in or near the street an order prohibiting traffic to the extent so directed, and shall fix such bars, chains or posts across or in the street as they may think proper for preventing or restricting traffic therein, after notifying in local newspapers their intention to do so.

Provision of facilities, and payment of compensation, when work is executed by Board in public street vested in them

61. (*1*) When any work is being executed by the Board in any public street vested in them, the Board shall, so far as may reasonably be practicable, make adequate provision for—

(*a*) the passage or diversion of traffic,

(*b*) securing access to all premises approached from such street, and

(*c*) any drainage, water-supply or means of lighting which is interrupted by reason of the execution of the work.

(*2*) The Board shall pay reasonable compensation to any person who sustains special damage by reason of the execution of any such work.

Power of Board to turn or close public street or square vested in them

62. (*1*) The Board may—

(*a*) turn, divert, discontinue the public use of, or permanently close any public street vested in them, or any part thereof, or

(*b*) discontinue the public use of, or permanently close, any public square vested in them, or any part thereof.

(*2*) Whenever the Board discontinue the public use of, or permanently close, any public street vested in them, or any part thereof, they shall pay reasonable compensation to every person who was entitled, otherwise than as a mere licensee, to use such street or part as a means of access and has suffered damage from such discontinuance or closing.

(*3*) Whenever the Board discontinue the public use of, or permanently close, any public square vested in them, or any part thereof, they shall pay reasonable compensation to every person—

(*a*) who was entitled otherwise than as a mere licensee, to use such square or part as a means of access, or

(*b*) whose immovable property was ventilated by such square or part,

and who has suffered damage,—

(*i*) in case (*a*), from such discontinuance or closing, or

(*ii*) in case (*b*), from the use to which the Board have put such square or part.

(4) In determining the compensation payable to any person under sub section (2) or sub section (3) the Board shall make allowance for any benefit accruing to him from the construction provision or improvement of any other public street or square at or about the same time that the public street or square or part thereof on account of which the compensation is paid is discontinued or closed

(5) When any public street or square vested in the Board or any part thereof is permanently closed under sub-section (1) the Board may sell or lease so much of the same as is no longer required

Projected public streets

63 (1) In regard to any area in the neighbourhood of the Calcutta Municipality the Board may from time to time prepare schemes and plans of proposed public streets showing the direction of such streets the street alignment and building line on each side of them their intended width and such other details as may appear desirable

(2) Before finally adopting any scheme or plan prepared under sub section (1) the Board shall give public notice of their intention so to do and shall send the scheme or plan to the local authority by which the said area is administered and shall consider all objections received from any person affected by the scheme or plan and any representation made to them by the said local authority before a date to be appointed by the Board in this behalf,

(3) When any plan prepared under sub section (1) has been finally adopted by the Board the street to which it refers shall be deemed to be a projected public street

(4) If any person desires to erect re erect add to or alter any building or wall so as to make the same fall within the *street alignment or building line shown in any plan so adopted* he shall apply to the Board for permission to do so

(5) If the Board refuse to grant permission to any person to erect on his land any building or wall to project as aforesaid and if they do not proceed to acquire such land within one year from the date of such refusal they shall pay reasonable compensation to such person for any damage sustained by him in consequence of such refusal

(6) When any building wall or part thereof projecting across the street alignment or building line shown in any plan adopted as aforesaid has fallen down or been burnt down or taken down the Chairman may by written notice require the same to be set back to or towards such street alignment or building line

(7) When any building or wall is set back in pursuance of a requisition made under sub-section (6) the Board shall forthwith make full compensation to the owner of the building or wall for any damage that he may sustain thereby

(*Chapter III.—Improvement Schemes and Re housing Schemes —Sec. 64.*)

64. (*1*) If any question or dispute arises— Reference of disputes to Tribunal

(*a*) between the Board and the previous owner of any street or square or part thereof which has vested in the Board under section 55 and has been altered or closed by them, as to the sufficiency of the compensation paid or proposed to be paid under sub-section (*3*) of that section, or

(*b*) between the Board and any person who was entitled, otherwise than as a mere licensee, to use as a means of access any street or square or part thereof which has vested in the Board under section 55,

(*i*) as to whether the alteration or closing of such street, square or part causes damage or substantial inconvenience to owners of property adjacent thereto or to residents in the neighbourhood, or

(*ii*) as to whether the other means of access provided or proposed to be provided under sub-section (*4*) of the said section 55 are reasonably sufficient, or

(*iii*) as to the sufficiency of any compensation paid or proposed to be paid under the said sub-section (*4*), or

(*c*) between the Board and any person, as to the sufficiency of any compensation paid or proposed to be paid to him under section 61, section 62 or section 63,

the matter shall be determined by the Tribunal, if referred to it, either by the Board or by the claimant, within a period of three months from—

in case (*a*) or case (*b*)—the date on which the street or square or part thereof was altered or closed by the Board, or

in case (*c*)—the date on which the said person was informed of the decision of the Board fixing the amount of compensation to be paid to him,

and the determination of the Tribunal shall be final

(*2*) If a reference to the Tribunal be not made within the period prescribed by sub section (*1*), the decision of the Board shall be final

(*3*) For the purpose of determining any matter referred to it under sub-section (*1*), the Tribunal shall have all the powers with regard to witnesses, documents and costs which it would have if the Land Acquisition Act, 1894[1], as modified by section 71 of this Act were applicable to the case

[1] Printed in the General Acts 1887 97, Ed 1909 p 363

Vesting in Corporation of streets laid out or altered and open spaces provided by the Board under an improvement scheme

65. (1) Whenever the General Committee are satisfied—

(a) that any street laid out or altered by the Board has been duly levelled, paved, metalled, flagged, channelled, sewered and drained in the manner provided in the plans sanctioned by the Local Government under section 48 and

(b) that such lamps, lamp-posts and other apparatus as the General Committee consider necessary for the lighting of such street and as ought to be provided by the Board have been so provided, and

(c) that water and other sanitary conveniences ordinarily provided in a Municipality have been duly provided in such street,

the General Committee shall make a report to the Corporation and the Corporation shall thereupon, after informing the Board of their intention to do so, by written notice affixed in some conspicuous position in such street, declare the street to be a public street, and the street shall thereupon vest in the Corporation, and shall thenceforth be maintained, kept in repair, lighted and cleansed by the Corporation

(2) When any open space for purposes of ventilation or recreation has been provided by the Board in executing any improvement scheme, it shall, on completion, be transferred to the Corporation by resolution of the Board, and shall thereupon vest in and be maintained at the expense of the Corporation

Provided that the General Committee may require the Board before any such open space is so transferred, to enclose, level turf drain and lay out such space and provide footpaths therein and if necessary, to provide lamps and other apparatus for lighting it

(3) If any difference of opinion arises between the Board and the General Committee in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the Local Government, whose decision shall be final

Application of section 65 to other Municipalities

66. If section 65 be extended by notification under section 1 sub-section (3) to any Municipality in the neighbourhood of the Calcutta Municipality, it shall be construed as if the references therein to the General Committee and the Corporation were references to the Commissioners of the former Municipality

Power of Board to retain service passages

67. Notwithstanding anything contained in section 65 or section 66 the Board may retain any service passage which they have laid out for sanitary purposes, and may enter into an agreement with the Corporation or any other person for the supervision, repair lighting and general management of any passage so retained

CHAPTER IV.

ACQUISITION AND DISPOSAL OF LAND

Acquisition by Agreement

68. The Board may enter into an agreement with any person for the purchase or leasing by the Board from such person of any land which the Board are authorized to acquire, or any interest in such land. Power to purchase or lease by agreement.

Compulsory Acquisition

69. The Board may, with the previous sanction of the Local Government acquire land under the provisions of the Land Acquisition Act, 1894[1], for carrying out any of the purposes of this Act. Power to acquire land under the Land Acquisition Act, 1894.

70. A Tribunal shall be constituted, as provided in section 72, for the purpose of performing the functions of the Court in reference to the acquisition of land for the Board under the Land Acquisition Act, 1894[1]. Tribunal to be constituted.

71. For the purpose of acquiring land under the said Act[2] for the Board,— Modification of the Land Acquisition Act 1894.

(a) the Tribunal shall (except for the purposes of sections 54 of that Act[2]) be deemed to be the Court, and the President of the Tribunal shall be deemed to be the Judge, under the said Act[2],

(b) the said Act[2] shall be subject to the further modifications indicated in the Schedule,

(c) the President of the Tribunal shall have power to summon and enforce the attendance of witness, and to compel the production of documents, by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908[3], and

(d) the award of the Tribunal shall be deemed to be the award of the Court under the said Land Acquisition Act, 1894[1], and shall be final[4].

72. (1) The said Tribunal shall consist of a President and two assessors. Constitution of Tribunal.

(2) The President of the Tribunal shall be either—

(a) a member of the Judicial Branch of the Imperial or Provincial Civil Service, of not less then ten years'

standing in such Service who has for at least three years served as District Judge or held judicial office not inferior to that of a Subordinate Judge or

(*b*) a barrister advocate or pleader of not less than ten years standing who has practised as an advocate or pleader in the Calcutta High Court

(*3*) The President of the Tribunal and one of the assessors shall be appointed by the Local Government and the other assessor shall be appointed by the Corporation or in default of the Corporation by the Local Government

Provided that no person shall be eligible for appointment as a member of the Tribunal if he is a Trustee or is for any of the reasons mentioned in section 9 disqualified for appointment as a Trustee

(*4*) The term of office of each member of the Tribunal shall be two years but any member shall subject to the proviso to sub section (*3*) be eligible for reappointment at the end of that term

(*5*) The Local Government may on the ground of incapacity or misbehaviour or for any other good and sufficient reason cancel the appointment of any person as a member of the Tribunal

(*6*) When any person ceases for any reason to be a member of the Tribunal or when any member is temporarily absent in consequence of illness or any other unavoidable cause the Local Government or (if the person whose place is to be filled was appointed by the Corporation) the Corporation or in default of the Corporation the Local Government shall forthwith appoint a fit person to be a member in his place

(*7*) All appointments made under this section shall be published by notification

Remuneration of members of Tribunal

73. Each member of the Tribunal shall be entitled to receive such remuneration either by way of monthly salary or by way of fees or partly in one of those ways and partly in the other as the Local Government may prescribe

Officers and servants of Tribunal

74 (*1*) The President of the Tribunal shall from time to time prepare a statement showing—

(*a*) the number and grades of the clerks and other officers and servants whom he considers should be maintained for carrying on the business of the Tribunal

(*b*) the amount of the salary to be paid to each such officer and servant and

(*c*) the contributions payable under section 116 in respect of each such officer and servant

(2) The President of the Tribunal shall, from time to time, make rules—

(i) for regulating the grant of leave of absence, leave-allowances and acting-allowances to the officers or servants of the Tribunal, and

(ii) for establishing and maintaining a provident or annuity fund, for compelling all or any of the officers or servants of the Tribunal (other than any servant of the Government in respect of whom a contribution is paid under section 116) to contribute to such fund, at such rates and subject to such conditions as may be prescribed by such rules and, with the sanction of the Board for supplementing such contributions out of the funds of the Board

Provided that a Government servant employed as an officer or servant of the Tribunal shall not be entitled to leave or leave-allowances otherwise than as may be prescribed in any general or special orders of the Government for regulating the transfer of Government servants to foreign service

(3) All statements prepared under sub-section (1), and all rules made under sub-section (2), shall be subject to the previous sanction of the Local Government

(4) Subject to any directions contained in any statement prepared under sub-section (1) and any rules made under sub-section (2), and for the time being in force, the power of appointing, promoting and granting leave to officers and servants of the Tribunal, and the power of reducing, suspending or dismissing them, shall vest in the President of the Tribunal

75. The remuneration prescribed under section 73 for members of the Tribunal, and the salaries, leave-allowances and acting-allowances prescribed under section 74 for officers and servants of the Tribunal, shall be paid by the Board to the President of the Tribunal for distribution

Payments by Board on account of Tribunal.

76. (1) The President of the Tribunal may, from time to time, with previous sanction of the Local Government, make rules[1], not repugnant to the Code of Civil Procedure, 1908[2], for the conduct of business by the Tribunal

Power to make rules for Tribunal.

(2) All such rules shall be published by notification

77. (1) For the purpose of determining the award to be made by the Tribunal under the Land Acquisition Act, 1894[3],—

Award of Tribunal how to be determined.

(a) if there is any disagreement as to the measurement of land, or the amount of compensation or costs to be

[1] For rules issued under s 76 (1) see Calcutta Gazette, 1915 Pt I, p 53
[2] Printed in the General Acts, 19 4-09 Ed 1909 p 141
[3] Printed in the Gen ral Acts, 1887 97, Ed 190), p 363

allowed the opinion of the majority of the members of the Tribunal shall prevail

(*b*) questions relating to the determination of the persons to whom compensation is payable or the apportionment of compensation may be tried and decided in the absence of the assessors if the President of the Tribunal consider their presence unnecessary and when so tried and decided the decision of the President shall be deemed to be the decision of the Tribunal and

(*c*) notwithstanding anything contained in the foregoing clauses the decision on all questions of law and procedure shall rest solely with the President of the Tribunal

(*2*) Every award of the Tribunal and every order made by the Tribunal for the payment of money shall be enforced by the Court of Small Causes of Calcutta as if it were a decree of that Court

Abandonment of Acquisition

Abandonment of acquisition in consideration of special payment

78. (*1*) In any case in which the Local Government has sanctioned the acquisition of land in any area comprised in an improvement scheme which is not required for the execution of the scheme the owner of the land or any person having an interest therein may make an application to the Board requesting that the acquisition of the land should be abandoned in consideration of the payment by him of a sum to be fixed by the Board in that behalf

(*2*) The Board shall admit every such application if it—

(*a*) reaches them before the time fixed by the Collector under section 9 of the Land Acquisition Act 1894[1] for making claims in reference to the land and — I of 1894

(*b*) is made by all persons who have interests in the land greater than a lease for years having seven years to run

(*3*) If the Board decide to admit any such application they shall forthwith inform the Collector and the Collector shall thereupon stay for a period of three months all further proceedings for the acquisition of the land and the Board shall proceed to fix the sum in consideration of which the acquisition of the land may be abandoned

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[1] Printed in the General Acts [illegible]

(4) Within the said period of three months, or, with the permission of the Board, at any time before the Collector has taken possession of the land under section 16 of the Land Acquisition Act, 1894[1], the person from whom the Board have arranged to accept the sum so fixed may, if the Board are satisfied that the security offered by him is sufficient, execute an agreement with the Board, either—

(i) to pay the said sum three years after the date of the agreement, or

(ii) to leave the said sum outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at the rate of four *per cent. per annum*, and to make the first annual payment of such interest four years after the date of the agreement

Provided that the Board may, at any time before the Collector has taken possession of the land under section 16 of the Land Acquisition Act, 1894,[1] accept immediate payment of the said sum instead of an agreement as aforesaid

(5) When any agreement has been executed in pursuance of sub-section (4), or when any payment has been accepted in pursuance of the proviso to that sub-section, in respect of any land the proceedings for the acquisition of the land shall be deemed to be abandoned,

(6) Every payment due from any person under any agreement executed under sub-section (4) shall be a charge on the interest of that person

(7) If any instalment of interest payable under an agreement executed in pursuance of clause (ii) of sub-section (4) be not paid on the date on which it is due, the sum fixed by the Board under sub-section (3) shall be payable on that date, in addition to the said instalment

(8) At any time after an agreement has been executed in pursuance of clause (ii) of sub-section (4), any person may pay off the charge created thereby, with interest, at the rate of four *per cent per annum*, up to the date of such payment

(9) When an agreement in respect of any land has been executed by any person in pursuance of sub-section (4), no suit with respect to such agreement shall be brought against the Board by any other person (except an heir, executor or administrator of the person first aforesaid) claiming to have an interest in the land

Recovery of money payable in pursuance of section 78

79. When an agreement has been executed by any person in pursuance of section 78, sub-section (4), in respect of any

[1] Printed in the General Acts 1887 97, Ed 1901, p 363

land and any money payable in pursuance of that section is not duly paid the same shall be recoverable by the Board (together with interest up to the date of realization at the rate of four *per cent per annum*) from the said person or his successor in interest in such land in the manner provided by the Calcutta Municipal Act 1899[1] for the recovery of the consolidated rate

and if not so recovered the Chairman may after giving public notice of his intention to do so and not less than one month after the publication of such notice sell the interest of the said person or successor in such land by public auction and may deduct the said money and the expenses of the sale from the proceeds of the sale and shall pay the balance (if any) to the defaulter

[illegible]

80 If any land in respect of which an agreement has been executed or a payment has been accepted in pursuance of section 78 sub section (4) be subsequently required for any of the purposes of this Act the agreement or payment shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Land Acquisition Act 1894[2]

Disposal of Land

Power to dispose of land

81. (*1*) The Board may retain or may let on hire lease sell exchange or otherwise dispose of any land vested in or acquired by them under this Act

(*2*) Whenever the Board decide to lease or sell any land acquired by them under this Act from any person they—

(*a*) shall give notice by advertisement in local newspapers and

(*b*) shall offer to the said person or his heirs executors or administrators a prior right to take on lease or to purchase such land at a rate to be fixed by the Board if the Board consider that such a right can be given without detriment to the carrying out of the purposes of this Act

(*3*) If in any case two or more persons claim to exercise a right offered under clause (*b*) to take on lease or to purchase any land the right shall be exerciseable by the person who agrees to pay the highest sum for the land not being less than the rate fixed by the Board under that clause to the exclusion of the others

[1] Printed as [illegible] p 719
[2] Printed in the General Acts 1887-97 [illegible] 1909 p 3 3

CHAPTER V.

TAXATION.

Duty on Transfers of Property.

Duty on certain transfers of immoveable property

[1]**82.** (*1*) The duty imposed by the Indian Stamp Act, 1899,[2] on instruments of sale, gift and usufructuary mortgage, respectively, of immovable property shall, in the case of instruments affecting immovable property situated in the Calcutta Municipality and executed on or after the commencement of this Act[3], be increased by two *per centum* on the value of the property so situated, or (in the case of an usufructuary mortgage) on the amount secured by the instrument, as set forth in the instrument.

(*2*) For the purposes of this section, section 27 of the said Indian Stamp Act, 1899,[2] shall be read as if it specifically required the particulars referred to therein to be set forth separately in respect of—

(*a*) property situated in the Calcutta Municipality, and
(*b*) property situated outside the Calcutta Municipality,

respectively.

(*3*) For the purposes of this section, section 64 of the said Indian Stamp Act, 1899,[2] shall be read as if it referred to the Board as well as the Government.

(*4*) All collections resulting from the said increase shall, after deducting incidental expenses (if any), be paid to the Board at such time as may be prescribed by rule made under section 86.

Terminal Tax on Passengers.

Terminal tax on passengers by railway or inland steam vessel

83. (*1*) Every passenger brought to or taken from any station in the Calcutta Municipality or the Howrah Municipality by railway, and

every passenger brought to or taken from any landing-place in the Port of Calcutta, within five miles from Government House, by inland steam-vessel,

shall pay a tax of half-an-anna in respect of each journey so made by him:

Provided as follows:—

(*a*) the said tax shall not be payable by any passenger brought from, or taken to, any place situated

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[1] S[illegible] the Bengal Laws Act, 1914 (Ben Act 1

[illegible] 148 dated the 30th October, 1911, in the

within a radius of thirty miles from Government House:

(*b*) the Local Government may, by notification, either—

(*i*) with the previous sanction of the Government of India, reduce the said radius to any distance less than thirty miles, in its application either to passengers generally or to passengers of any specified class, or

(*ii*) with the previous sanction of the Government of India cancel proviso (*a*), or

(*iii*) reduce the said tax to any lower rate, either in respect of passengers generally or in respect of pessengers making frequent journeys;

(*c*) the said tax may, in the case of passengers taking suburban season tickets, be calculated at the rate of six annas *per mensem* for each such ticket, or at such lower rate as the Local Government may prescribe by notification.

(2) The said tax shall be collected by means of a surcharge on fares, by the administration of the railway, or the owner of the vessel, by which the passengers are carried, and shall be paid to the Board at such time as may be prescribed by rule made under section 86, after making such deduction as the Local Government may approve to meet any expenses incurred in connection with the collection of the tax.

(3) The owner of every inland steam-vessel referred to in sub-section (*1*) shall prepare and deliver, or cause to be prepared and delivered, to the Chairman, each quarter, a return, in the form prescribed by rule made under section 86, of all passengers, carried by such vessel, by whom the tax imposed by that sub-section is payable; and shall subscribe, at the foot of such return, a declaration of the truth thereof.

(*4*) Every such return shall be delivered to the Chairman or posted to his address within fifteen working days, or at most within thirty days, after the end of the quarter to which it relates.

Explanation.—The expression "working day," as used in this sub-section, means every day except a public holiday as defined in 25[1] of the Negotiable Instruments Act, 1881. 26 of 1881

(*5*) If this Act is directed to come into force during a quarter, the first of the said returns shall be made for the unexpired portion of that quarter.

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[1] Printed in the General Acts, 1879-86, Ed. 1909, p. 115

(Chapter V.—Taxation.—Secs. 84-86.)

(6) The expression "administration" and the expressions "owner" and "inland steam-vessel," as used in this section, have the same meanings as in the Indian Railways Act, 1890[1], and the Inland Steam-vessels Act, 1884[2], respectively.

Customs Duty on Jute

84. (1) A customs duty shall be levied and collected on all jute exported by sea from the Port of Calcutta to any other port, whether beyond or within India, at such rate, not exceeding,— Customs duty on exports of jute from Calcutta by sea

(a) in the case of raw jute (including jute cuttings and rejections), two annas per bale of four hundred pounds, and

(b) in the case of manufactured jute, twelve annas per ton of two thousand two hundred and forty pounds,

as the Local Government may prescribe by notification[3]

Provided that the said duty shall not be levied or collected in respect of jute, whether raw or manufactured, exported under any contract which was made before the fifteenth day of August, 1911, and the existence of which was established to the satisfaction of the Customs Collector before the fifteenth day of September 1911

(2) At the close of each quarter, or as soon thereafter as may be convenient, the duty collected under sub-section (1) shall, after deducting the expenses of collection (if any), be paid by the Customs Collector to the Board

85. Section 5[4] of the Indian Tariff Act, 1894, shall not apply to jute (whether raw or manufactured) passing by land out of Calcutta Section 5 of the Indian Tariff Act, 1894 not to apply to jute

Supplemental Provisions

[5]**86.** (1) The Local Government may make rules[6] for carrying out the purposes of this Chapter Power to Local Government to make rules

(2) In particular, and without prejudice to the generality of the foregoing power, the Local Government may make rules—

(a) for regulating the collection of taxes imposed by this Chapter, and the payment thereof to the Board

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[1] Printed in the General Acts 1887-97 Ed 1909 p 232
[2] Printed in the General Acts 1879-86, Ed 1909 p 469

Laws Act, 1914 (Ben Act I of 1914) s 3, Sch I, post p 861
[6] For references to rules made under section 86 see the Bengal Local Statutory Rules and Orders 1919 Vol I Pt VI, and for further rules see Calcutta Gazette 1914, Pt IB pp 270, 308

(b) for prescribing the form of the return required by section 83, sub-section (3), and the particulars to be contained therein, and the manner in which the same is to be verified

Punishment for offences

87. The offences mentioned in column 1 of the following table shall be punishable to the extent mentioned in column 2 thereof with reference to such offences, respectively —

1	2
(1) Omitting to make any return required by section 83 sub-section (3) or refusing to sign or complete the same	Fine not exceeding one thousand rupees
(2) Making and delivering any such return containing any statement not true to the best of the information and belief of the person making the same	The penalty provided in the Indian Penal Code section 199[1] for making a false statement in a declaration 45
(3) Otherwise contravening any rule made under section 86	Fine not exceeding five hundred rupees

CHAPTER VI

FINANCE

Municipal Contributions

Contributions from Municipal Funds

88. (1) The Chairman of the Corporation shall pay from the Municipal Funds to the Board on the first day of each quarter so long as the Board continue to exist, a sum equivalent to one-half *per cent* per quarter on the annual rateable valuation determined under Chapter XII of the Calcutta Municipal Act, 1899[2], as it stood on the first day of the last preceding quarter Ben. / of 18

Provided as follows —

(a) in the case of property vested in the Commissioners for the Port of Calcutta, the said percentage shall be calculated upon nine-tenths of the annual rateable valuation of such property, and

(b) if this Act is directed to come into force during a quarter the amount of the first of such payments shall bear such proportion to the sum payable hereunder as the unexpired portion of that quarter bears to the whole quarter

[1] Printed in the General Acts 1834-67, Ed 1909 p 298

[2] Printed ante, p 219

(*2*) If in any financial year the sums due to the Board under section 82 and sub-section (*1*) of this section aggregate less than seven-and-a-half lakhs of rupees, the Chairman of the Corporation shall pay to the Board, from the Municipal Funds, such further sum as may be required to make up the said sum of seven-and-a-half lakhs of rupees.

(*3*) The payments prescribed by sub-sections (*1*) and (*2*) shall be made in priority to all other payments due from the Corporation, except those referred to in section 110 of the said

3 Calcutta Municipal Act, 1899[1].

(*4*) If any payment prescribed by sub-section (*1*) or sub-section (*2*) cannot be made without increasing the maximum authorized by clause (*a*) of section 117 of the said Calcutta

3 Municipal Act, 1899[1], then that maximum may be increased to such extent as may be necessary to secure the due making of such payment.

Loans.

89. The Board may from time to time borrow, at such rate of interest, and for such period, and upon such terms, as to the time and method of repayment and otherwise, as the Government of India may approve, any sum necessary for the purpose of— *Power of Board to borrow money.*

(*a*) meeting expenditure debitable to the capital account under section 123, or

(*b*) repaying any loan previously taken under this Act.

90. Whenever the borrowing of any sum has been approved under section 89, the Local Government shall, with the previous sanction of the Government of India, direct and appoint the manner in which and the time at which such sum shall be borrowed. *Manner and time of borrowing money.*

91. Whenever the borrowing of any sum has been approved under section 89, the Board may, instead of borrowing such sum or any part thereof from the public, but subject to any direction given by the Local Government under section 90, take credit from any Bank, on a cash account to be kept in the name of the Board, to the extent of such sum or part, *Loans from Banks.*

and, with the previous sanction of the Local Government may grant mortgages of all or any property vested in the Board by way of securing the payment of the amount of such credit or of the sums from time to time advanced on such cash account with interest.

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[1] Printed *ante* p. 219.

(Chapter VI.—Finance.—Secs. 92-98).

Diversion of borrowed moneys to purposes other than those first approved.

92. When any sum of money has been borrowed under section 89 or section 91 for the purpose of meeting particular expenditure or repaying a particular loan, no portion thereof shall be applied to any other purpose without the previous sanction of the Local Government.

Form, signature, exchange, transfer and effect of debentures.

93. *(1)* Whenever money is borrowed by the Board on debentures, the debentures shall be in such form as the Board, with the previous sanction of the Government of India, may from time to time determine.

(2) All debentures shall be signed by the Chairman and one other Trustee.

(3) The holder of any debenture in any form prescribed under sub-section *(1)* may obtain in exchange therefor, upon such terms as the Board may from time to time determine, a debenture in any other form so prescribed.

(4) Every debenture issued by the Board shall be transferable by endorsement, unless some other mode of transfer be prescribed therein.

(5) The right to sue in respect of moneys secured by debentures issued by the Board shall vest in the respective holders of the debentures for the time being, without any preference by reason of some of such debentures being prior in date to others.

Signature of coupons attached to debentures.

94. All coupons attached to debentures issued under this Act shall bear the signature of the Chairman; and such signature may be engraved, lithographed or impressed by any mechanical process.

Payment to survivors of joint payees.

95. When any debenture or security issued under this Act is payable to two or more persons jointly, and either or any of them dies, then, notwithstanding anything in section 45[1] of the Indian Contract Act, 1872, the debenture or security shall be payable to the survivor or survivors of such persons:

Provided that nothing in this section shall affect any claim by the representative of a deceased person against such survivor or survivors.

Receipt by joint holder for interest or dividend.

96. Where two or more persons are joint holders of any debenture or security issued under this Act, any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Board by any other of such persons.

Priority of payment of interest on and repayment of loans.

97. All payments due from the Board for interest on, or the repayment of, loans, shall be made in priority to all other payments due from the Board.

Repayment of loans taken under section 89.

98. Every loan taken by the Board under section 89 shall be repaid within the period approved by the Government of India under that section, and subject to the provisions of

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[1] Printed in the General Acts, 1868-78, Ed. 1909, p. [illegible]

section 125, sub-section (2), by such of the following methods as may be so approved, namely —

(a) from a sinking fund established under section 99 in respect of the loan, or

(b) by paying equal yearly or half-yearly instalments of principal, or of principal and interest, throughout the said period, or

(c) if the Board have, before borrowing money on debentures, reserved, by public notice, a power to pay off the loan by periodical instalments and to select by lot the particular debentures to be discharged at particular periods—then by paying such instalments at such periods, or

(d) from money borrowed for the purpose under section 89, clause (b), or

(e) partly from the sinking fund established under section 99 in respect of the loan, and partly from money borrowed for the purpose under section 89, clause (b)

99. (*1*) Whenever the Government of India have approved the repayment of a loan from a sinking fund, the Board shall establish such a fund and shall pay into it in every year, until the loan is repaid a sum so calculated that, if regularly paid throughout the period approved by the Government of India under section 89, it would, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the loan at the end of that period

Establishment and maintenance of sinking funds

(2) The rate of interest, on the basis of which the sum referred to in sub-section (*1*) shall be calculated, shall be such as may be prescribed by the Government of India

100. [illegible] thing contained in section 99, [illegible] at credit of the sinking fund [illegible] any loan, is of such amount that, [illegible] rate of interest prescribed under sub-section (2) of that section, it will be sufficient to repay the loan at the end of the period approved by the Government of India under section 89, then, with the permission of the Local Government, further annual payments into such fund may be discontinued

Power to discontinue payments into sinking fund

101. (*1*) All money paid into any sinking fund shall as soon as possible be invested, under the orders of the Board, in—

Investment of sinking funds

(a) Government securities, or

(b) securities guaranteed by the Government, or

(c) Calcutta Municipal debentures, or

(d) debentures issued by the Commissioners for the Port of Calcutta, or

(e) debentures issued by the Board,

in the joint names of the Secretary to the Government of Bengal in the Financial Department and the Accountant-General of

Bengal to be held by them as trustees for the purpose of repaying from time to time the debentures issued by the Board

(2) All dividends and other sums received in respect of any such investment shall as soon as possible after receipt be paid into the appropriate sinking fund and invested in the manner prescribed by sub section (*1*)

(3) Any investment made under this section may from time to time subject to the provisions of sub section (*1*) be varied or transposed

Application of sinking fund

102 The aforesaid trustees may from time to time apply any sinking fund or any part thereof in or towards the discharge of the loan or any part of the loan for which such fund was established, and until such loan is wholly discharged shall not apply the same for any other purpose

Annual statements by trustees

103 (*1*) The aforesaid trustees shall at the end of every financial year transmit to the Chairman a statement showing—

(*a*) the amount which has been invested during the year under section 101

(*b*) the date of the last investment made previous to the transmission of the statement,

(*c*) the aggregate amount of the securities held by them

(*d*) the aggregate amount which has up to the date of the statement been applied under section 102 in or towards repaying loans and

(*e*) the aggregate amount already paid into each sinking fund

(2) Every such statement shall be laid before the Board and published by notification

Annual examination of sinking fund

104. (*1*) The said sinking funds shall be subject to annual examination by the Accountant General Bengal who shall ascertain whether the cash and the current value of the securities at credit of such funds are actually equal to the amount which would have accumulated had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom

(2) The Board shall forthwith pay into any sinking fund any amount which the Accountant General may certify to be deficient unless the Government of India specially sanction a gradual readjustment

Enforcement of Liabilities

Procedure if Board fail to make any payment or investment in respect of loans

105 (*1*) If the Board fail—

(*a*) to pay any interest due in respect of any loan taken in pursuance of section 89 or

(*b*) to make any payment prescribed by section 98 section 99 or sub section (*2*) of section 101, or

of 1911.]

(Chapter VI.—Finance.—Secs. 106. 107.)

(*c*) to make any investment prescribed by section 101,

the Accountant-General of Bengal shall make such payment or set aside and invest such sum as ought to have been invested under the said section 101, as the case may be,

and the Chairman of the Corporation shall forthwith pay from the Municipal Funds to the said Accountant-General a sum equivalent to the sum so paid or invested by him;

and the Local Government may attach the rents and other income of the Board, and thereupon the provisions of sub-

3 of section (*2*) of section 141 of the Calcutta Municipal Act, 1899[1], shall, with all necessary modifications be deemed to apply.

(*2*) Whenever the Chairman of the Corporation has made any payment to the Accountant-General under sub-section (*1*), the Local Government shall reimburse the Corporation out of the rents and income attached under that sub-section, and if such rents and income prove insufficient for that purpose the Corporation may, with the previous sanction of the Local Government, increase the maximum authorized by clause (*a*)

3 of of section 147 of the Calcutta Municipal Act, 1899[1], to such extent as may be necessary for the purpose of making up the deficiency

Provided that no such increase shall be made, unless the taxes imposed by sections 83 and 84 are levied at the maximum rates respectively prescribed by those sections

Procedure if Chairman of Corporation fails to make any payment due to Board or Accountant-General

106. If the Chairman of the Corporation fails to make any payment as required by section 88 or section 105, the Local Government may attach the Municipal Funds or any of them.

and thereupon the provisions of sub-section (*2*) of section

3 of 141 of the Calcutta Municipal Act, 1899[1], shall, with all necessary modifications, be deemed to apply, and the Local Government may further require the Corporation to increase the maximum authorized by clause (*a*) of section 147 of that Act[2], to such extent as may be necessary for the purpose of making such payment

Provided that no such increase shall be made, in consequence of any failure of the Chairman of the Corporation to make any payment as required by section 105, unless the taxes imposed by sections 83 and 84 are levied at the maximum rates respectively prescribed by those sections

Payments under section 105 to be a charge on the property of the Board

107. All moneys paid by the Chairman of the Corporation under sub-section (*1*) of section 105 and not reimbursed by the Local Government under sub-section (*2*) of that section, and all moneys payable under sub-section (*1*) of section 105 and levied under section 106, shall constitute a charge upon the property of the Board

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[1] Printed *ante* p 219

[2] The Calcutta Municipal Act, 1899 It is printed *ante*, p 219

Budget Estimates

Estimates of income and expenditure to be laid annually before the Board

108. *(1)* The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and expenditure of the Board for the next ensuing financial year

(2) Every such estimate shall make provision for the due fulfilment of all the liabilities of the Board and for the efficient administration of this Act

(3) Every such estimate shall differentiate capital and revenue funds, and shall be prepared in such forms, and shall contain such details, as the Local Government or the Board may from time to time direct

(4) Every such estimate shall be completed and printed, and a copy thereof sent, by post or otherwise, to each Trustee, at least ten clear days before the date of the meeting at which the estimate is to be laid before the Board

Sanction of Board to estimates

109. The Board shall consider every estimate so laid before them, and shall sanction the same, either without alteration or with such alterations as they may think fit

Approval of Local Government to estimates

110. *(1)* Every such estimate as sanctioned by the Board, shall be submitted to the Local Government, who may, at any time within two months after receipt of the same,—

(*a*) approve the estimate, or
(*b*) disallow the estimate or any portion thereof, and return the estimate to the Board for amendment

(2) If any estimate is so returned to the Board, they shall forthwith proceed to amend it and shall re submit the estimate, as amended to the Local Government, who may then approve it

Transmission of copy of estimate to Chairman of Corporation

111. A copy of every such estimate shall, when approved by the Local Government, be sent by the Board to the Chairman of the Corporation

Special provisions as to the first estimate after the constitution of the Board

112. *(1)* A special meeting of the Board shall be held as soon as may be expedient after the day appointed under section 17, sub-section *(1)*, and the Chairman shall at such special meeting lay before the Board an estimate of the income and expenditure of the Board for the portion of the financial year which on the said day had not expired

(2) The provisions of section 108, sub-sections (2) to (4), and sections 109 to 111 shall apply to the said estimate.

Supplementary estimates

113. *(1)* The Board may, at any time during the year for which any estimate has been sanctioned cause a supplementary estimate to be prepared and laid before them at a special meeting

(2) The provisions of section 108 sub-sections *(3)* and *(4)* and sections 109 to 111 shall apply to every supplementary estimate

114. (*1*) No sum shall be expended by or on behalf of the Board unless the expenditure of the same is covered by a current budget-grant or can be met by re-appropriation or by drawing on the closing balance. Adherence to estimate, and maintenance of closing balance

(*2*) The closing balance shall not be reduced below one *lakh* of rupees without the previous sanction of the Local Government.

(*3*) The following items shall be excepted from the provisions of sub-sections (*1*) and (*2*), namely,—

(*a*) re-payments of moneys belonging to contractors or other persons and held in deposit, and of moneys collected by, or credited to, the Board by mistake.

(*b*) payments due under a decree or order of a Court passed against the Board or against the Chairman *ex officio* or under an award of the Tribunal,

(*c*) sums payable under a compromise of any suit or other legal proceeding or claim effected under section 151;

(*d*) sums payable under this Act by way of compensation; and

(*e*) payments required to meet some pressing emergency.

(*4*) Whenever any sum exceeding five thousand rupees is expended under clause (*e*) of sub-section (*3*), the Chairman shall forthwith report the circumstances to the Local Government, and shall at the same time explain how the Board propose to cover the expenditure.

Banking and Investments.

115. All moneys payable to the Board shall be received by the Chairman, and shall forthwith be paid into the Bank of Bengal to the credit of an account which shall be styled "The Account of the Trustees for the Improvement of Calcutta." Receipt of moneys, and deposit in Bank of Bengal

116. (*1*) Surplus moneys at the credit of the said account may from time to time be— Investment of surplus money

(*a*) deposited at interest in the Bank of Bengal or in any other Bank in Calcutta approved by the Local Government in this behalf, or

(*b*) invested in any of the securities or debentures mentioned in section 101, sub-section (*1*), of this Act or in section 20[1] of the Indian Trusts Act, 1882.

(*2*) All such deposits and investments shall be made by the Chairman on behalf of, and with the sanction of, the Board; and, with the like sanction, the Chairman may at any time withdraw any deposit so made, or dispose of any securities, and re-deposit or re-invest the money so withdrawn or the proceeds of the disposal of such securities.

[1] Printed in the General Acts, 1879-86, Ed 1909, p 180

(Chapter VI.—Finance —Secs 117-120)

Payments by cheque

117. (*1*) No payment shall be made by the Bank of Bengal out of the account referred to in section 115, except upon a cheque

(*2*) Payment of any sum due by the Board exceeding one hundred rupees in amount shall be made by means of a cheque, and not in any other way

Signature of orders under section 116 and cheques

118. All orders for making any deposit, investment, withdrawal or disposal under section 116, and all cheques referred to in section 117, must be signed—

(*a*) by the Chairman and the Secretary to the Board, or

(*b*) in the event of the illness or occasional absence from Calcutta of the Chairman or the Secretary, then by the Secretary or the Chairman, as the case may be, and by a Trustee other than the Chairman

Duty of Chairman and others before signing cheque

119. Before the Chairman or any other Trustee or the Secretary to the Board signs a cheque under section 118 he must satisfy himself that the sum for which such cheque is drawn either is required for a purpose or work specifically sanctioned by the Board or is an item of one of the excepted descriptions specified in section 114, sub-section (*3*)

Accounts

Definition of cost of management

120. (*1*) The expression "cost of management," as used in following sections in this Chapter, means—

(*a*) the salary and house-rent and conveyance allowance (if any) of the Chairman or acting Chairman, and the allowances and contributions referred to in section 11, sub-section (*2*),

(*b*) all fees paid under section 22, for attendance at meetings

(*c*) the salaries fees and allowances of, and the contributions paid under section 146 in respect of, officers and servants of the Board who are included in statements prepared under section 30,

(*d*) the remuneration of other employes of the Board, except employés who are paid by the day or whose pay is charged to temporary work,

(*e*) all payments made under section 75 and section 146 on account of the Tribunal, and

(*f*) all office expenses incurred by the Board or the Tribunal

(*2*) The expression "office expenses", in clause (*f*), means expenses incurred for carrying on office work, and includes the rent of offices, the provision of furniture therefor, and charges for printing and stationery.

Keeping of capital account and revenue account

121. (*1*) The Board shall keep a capital account and a revenue account

(*2*) The capital account shall show separately all expenditure incurred by the Board on each improvement scheme and each re-housing scheme

Credits to capital account

122. There shall be credited to the capital account—

(*a*) all sums (except interest) received in pursuance of section 78 or section 79;

(*b*) all moneys received on account of loans taken by the Board in pursuance of section 89 or section 91;

(*c*) the proceeds of the sale of any land vested in the Board which was purchased out of any loan taken in pursuance of section 89 or section 91,

(*d*) where land was purchased out of an advance from the revenue account, the portion of the proceeds of the sale of such land which remains after crediting to the revenue account the amount of such advance,

(*e*) the proceeds of the sale of any movable property (including securities for money invested from the capital account) belonging to the Board,

(*f*) all lump sums received from the Government in aid of the capital account,

(*g*) all *premia* received by the Board in connection with leases for any term exceeding forty years,

(*h*) all sums (if any) which the Local Government directs, under section 125, sub-section (*2*) to be credited to the capital account, and

(*i*) all moneys resulting from the sale of securities by direction of the Local Government under section 126

Application of capital account

123. The moneys credited to the capital account shall be held by the Board in trust, and shall be applied to—

(*a*) meeting all costs of framing and executing improvement schemes and re-housing schemes,

(*b*) meeting the cost of acquiring land for carrying out any of the purposes of this Act;

(*c*) meeting the cost of constructing buildings required for carrying out any of the purposes of this Act,

(*d*) the repayment of loans from money borrowed in pursuance of section 89, clause (*b*),

(*e*) making payments in pursuance of section 149, otherwise than for interest or for expenses of maintenance or working;

(*f*) making, or contributing towards the cost of making surveys, in pursuance of section 167;

(*g*) meeting such proportion of the cost of management as the Board may with the sanction of the Local Government prescribe in this behalf and

(*h*) temporarily making good the deficit (if any) in the revenue account at the end of any financial year

Credits to revenue account

124 There shall be credited to the revenue account—

(*a*) all interest received in pursuance of section 78 or section 79

(*b*) all proceeds received by the Board of taxes imposed by Chapter V

(*c*) all sums contributed from Municipal Funds which are received by the Board under section 88

(*d*) all fines damages and proceeds of confiscations received by the Board under section 175

(*e*) all annually recurring sums received from the Government in aid of the funds of the Board

(*f*) all *premia* received by the Board in connection with leases for any term not exceeding forty years

(*g*) all rents of land vested in the Board and

(*h*) all other receipts by the Board which are not required by section 122 to be credited to the capital account

Application of revenue account

125 (*1*) The moneys credited to the revenue account shall be held by the Board in trust and shall be applied to—

(*a*) meeting all charges for interest and sinking fund due on account of any loan taken in pursuance of section 89 clause (*a*) or section 91 and all other charges incurred in connection with such loans

(*b*) paying all sums due from the Board in respect of rates and taxes imposed under the Calcutta Municipal Act 1899 [1] upon land vested in the Board Be 18

(*c*) paying the cost (if any) of maintaining a separate establishment for the collection of the rents and other proceeds of land vested in the Board

(*d*) paying all sums which the Local Government may direct to be paid to any auditor under section 132

(*e*) making payments in pursuance of section 119 for interest or for expenses of maintenance or working

(*f*) paying the cost of management excluding such propor-portion thereof as may be debited to the capital account under clause (*g*) of section 123 and

(*g*) paying all other sums due from the Board other than those which are required by section 123 to be disbursed from the capital account

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[1] Printed *ante* p [illegible]19

of 1911.]

(Chapter VI.—Finance.—Secs. 126-133.)

(2) The surplus (if any) remaining after making the payments referred to in sub-section (1) shall,

subject to the maintenance of a closing balance of one *lakh* of rupees, and

except as provided in section 127, and

unless the Local Government otherwise directs,

be invested, in the manner prescribed in section 101, towards the service of any loans outstanding after the expiry of sixty years from the commencement of this Act

Power to direct sale of securities in which any *surplus of the* revenue account is invested

126. If, at any time after any surplus referred to in section 125, sub-section (2), has been invested, the Local Government is satisfied that the investment is not needed for the service of any loan referred to in that sub-section, it may direct the sale of the securities held under the investment

Advances from revenue account to capital account

127. (1) Notwithstanding anything contained in section 125, the Board may advance any sum standing at the credit of the revenue account for the purpose of meeting capital expenditure

(2) Every such advance shall be refunded to the revenue account as soon as may be practicable

Advances from capital account to revenue account

128. (1) Any deficit in the revenue account at the end of any financial year may be made good by an advance from the capital account

(2) Every such advance shall be refunded to the capital account in the following financial year

Submission of abstracts of accounts to Local Government

129. The Board shall submit to the Local Government, at the end of each half of every financial year an abstract of the accounts of their receipts and expenditure

Annual audit of accounts

130. The accounts of the Board shall, once in every financial year, be examined and audited by such auditor as the Local Government may appoint in this behalf

Powers of auditor

131. The auditor so appointed may,—

(a) by written summons, require the production before him of any document which he may consider necessary for the proper conduct of the audit,

(b) by written summons require any person having the custody or control of, or being accountable for, any such document to appear in person before him, and

(c) require any person so appearing before him to make and sign a declaration with respect to any such document, to answer any question, or to prepare and submit any statement

Remuneration of auditor

132. The Board shall pay to the said auditor such remuneration as the Local Government may direct

Reports and information to be furnished by auditor to the Board

133. The said auditor shall—

(a) report to the Board any material impropriety or irregularity which he may observe in the expenditure, or in the recovery of moneys due to the Board,

or in the accounts and report the same to the Local Government

(*b*) furnish to the Board such information as they may from time to time require concerning the progress of his audit, and

(*c*) within fourteen days after the completion of his audit, forward his report upon the accounts to the Chairman

Board to remedy defects pointed out by auditor

134. It shall be the duty of the Board forthwith to remedy any defects or irregularities that may be pointed out by the auditor

Auditor's report to be sent to each Trustee and considered by Board

135. The Chairman shall cause the report mentioned in section 133 clause (*c*) to be printed and shall forward a printed copy thereof to each Trustee and shall bring such report before the Board for consideration at their next meeting

Publication and transmission of an abstract of the accounts

136. As soon as practicable after the receipt of the said report the Board shall prepare an abstract of the accounts to which it relates and shall publish such abstract by notification and shall send a copy of the abstract to the Chairman of the corporation and to the Local Government

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CHAPTER VII

RULES

Further powers to Local Government for making rules

137. In addition to the power conferred by section 86 the Local Government may make rules[1]—

(*1*) for regulating elections under sub sections (*1*) (*2*) and (*3*) of section 7,

(*2*) for prescribing the maximum sum which may be paid to any person by way of fees under section [illegible]2,

(*3*) for fixing the charge to be made for a copy of or extracts from the municipal assessment-book furnished to the Chairman under section 46, and

(*4*) for prescribing the form of the abstracts of accounts referred to in sections 129 and 136

Further powers to Board for making rules

138. (*1*) In addition to the power conferred by section [illegible] the Board may from time to time make rules (not inconsistent with any rules made by the Local Government or the President of the Tribunal under this Act) for carrying out the purposes of this Act

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[1] For a reference to rules made under section 137 see the Bengal Local Statutory Rules and Orders 191[illegible] Vol I Pt VI and for a further rule *see* Calcutta Gazette 191[illegible] Pt IB p 167

(*Chapter VII.—Rules.—Sec. 139.*)

(*2*) In particular, and without prejudice to the generality of the foregoing power, the Board may make rules[1]—

(*a*) for associating members with the Board under section 19;

(*b*) for appointing persons (other than Trustees and persons associated with the Board under section 19) to be members of Committees under section 20;

(*c*) for regulating the delegation of powers or duties of the Board to Committees under section 20;

(*d*) for the guidance of persons employed by them under *this Act*;

(*e*) for prescribing the fees payable for copies of documents delivered under section 43, sub-section (*3*);

(*f*) for facilitating the taking of a census and securing accurate returns thereof;

(*g*) for the maintenance and management of dwellings and shops constructed under re-housing schemes.

(*3*) In making any rule under sub-section (*1*) or sub-section (*2*) the Board may provide that a breach of it shall be punishable—

(*i*) with fine which may extend to five hundred rupees, or

(*ii*) in case of a continuing breach, with fine which may extend to fifty rupees for every day during which the breach continues after receipt of written notice from the Chairman to discontinue the breach.

Conditions precedent to the making of rules under section 86, 137 or 138.

139. The power to make rules under section 86, section 137 or section 138 is subject to the condition of the rules being made after previous publication[2] and to the following further conditions, namely:—

(*a*) a draft of the rules shall be published by notification and in local newspapers;

(*b*) such draft shall not be further proceeded with until after the expiration of a period of one month from such publication, or such longer period as the Local Government or (in the case of rules made under section 138) the Board may appoint;

(*c*) for one month at least during such period a printed copy of such draft shall be kept at the Board's office for public inspection, and every person shall be permitted at any reasonable time to peruse the same free of charge;

(*d*) printed copies of such draft shall be delivered to any person requiring the same on payment of a fee of two annas for each copy.

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[1] For rules issued under s. 138 (2), *see* Calcutta Gazette, 1912, Pt. IB, pp. 117, 175.

[2] As to previous publication, *see* the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 24, printed *ante*, p. 18?.

(Chapter VII.—Rules —Chapter VIII —Supplemental Provisions —Secs 140-146)

Sanction of Local Government required to rules made under section 138

140. No rule made under section 138 shall have any validity unless and until it is sanctioned, with or without modification, by the Local Government

Publication of rules

141. When any rule has been made under section 86 or section 137, and when any rule has been made under section 138 and duly sanctioned, it shall be published by the Local Government by notification, and such publication shall be conclusive proof that the rule has been duly made.

Printing and sale of copies of rules

142. *(1)* The Chairman shall cause all rules made under section 86, section 137 or section 138 and for the time being in force to be printed, and shall cause printed copies thereof to be delivered to any applicant on payment of a fee of two annas for each copy.

(2) Notice of the fact of copies of rules being obtainable at the said price, and of the place where and the person from whom the same are obtainable, shall be given by the Chairman by advertisement in local newspapers

Exhibition of copies of rules

143. Copies, in English and Bengali of all rules made under section 137 or section 138 shall be hung or affixed in some conspicuous part of the Board's office and in such places of public resort affected by the rules as the Chairman may think fit

Power of Local Government to cancel rules made under section 138

144. The Local Government may at any time, by notification, cancel any rule made by the Board under section 138

CHAPTER VIII

SUPPLEMENTAL PROVISIONS

Status of Trustees, etc

Trustees, etc, deemed public servants

145. Every Trustee, and every officer and servant of the Board, and every member and officer and servant of the Tribunal, shall be deemed to be a public servant within the meaning of section 21[1] of the Indian Penal Code 45

Contributions towards leave-allowances and pensions of Government servants

Contributions by Board towards leave allowances and pensions of Government servants employed under this Act

146. The Board shall be liable to pay such contributions for the leave-allowances and pension of any Government servant employed as Chairman or as an officer or servant of the Board, or as a member or officer or servant of the Tribunal, as may be prescribed in any general or special orders of the

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[1] Printed in the General Acts 1834-67, Ed 1909 p 252

Government for regulating the transfer of Government servants to foreign service.

Extension of Acts to areas in the neighbourhood of the Calcutta Municipality.

Power to extend the Calcutta Municipal Act, 1899, to areas near Calcutta, to which provisions of the present Act have been extended.

147. (*1*) When any provision of this Act has been extended to any area under section 1, sub-section (*3*), the Local Government may, by notification published in the Calcutta Gazette and in such other manner (if any) as it may consider necessary, extend to such area the Calcutta Municipal Act, 1899,[1] or any portion thereof, subject to such restrictions and modifications (if any) as may be specified in such notification.

(*2*) When the said Calcutta Municipal Act, 1899[1], or any portion thereof, is extended under sub-section (*1*) to any area, then—

(*a*) the Bengal Municipal Act, 1884[2], or the Bengal Local Self-Government Act of 1885[2], as the case may be, or the corresponding portion of such Act, as the case may be, if in force in such area, shall be deemed to be repealed therein, and,

(*b*) except as the Local Government may otherwise, by notification, direct, all rules, by-laws, regulations, orders, directions and powers made, issued or conferred under the portions of the said Calcutta Municipal Act, 1899[1], which have been so extended and in force at the date of such extension, shall apply to the said area, in supersession of all corresponding rules, by-laws, regulations, orders, directions and powers (if any) made, issued or conferred under the said Bengal Municipal Act, 1884[2], or the said Bengal Local Self-Government Act of 1885[2], as the case may be.

Publication of notifications under sections 1 (3) and 147 (1) in draft for criticism.

148. (*1*) Before finally publishing any notification under section 1, sub-section (*3*) or section 147, sub-section (*1*), the Local Government shall publish a draft of the same in the Calcutta Gazette.

(*2*) Any ratepayer or inhabitant of the area affected by such draft may, if he objects to the draft, submit his objection in writing to the Local Government within six weeks from its publication, and the Local Government shall take such objection into consideration.

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[1] Printed *ante* p. 71[illegible]
[2] Printed in Vol. II of this Code.

Facilities for movement of the population.

Powers of the Board for facilitating movement of the population.

149. With a view to facilitating the movement of the population in and around the Calcutta Municipality, the Board may from time to time,—

(*1*) subject to any conditions they may think fit to impose,—

(*a*) guarantee the payment, from the funds at their disposal of such sums as they may think fit, by way of interest on capital expended on the construction, maintenance or working of means of locomotion, or

(*b*) make such payments as they may think fit from the said funds, by way of subsidy to persons undertaking to provide, maintain and work means of locomotion; or

(*2*) either singly or in combination with any other person, construct, maintain and work any means of locomotion, under the provisions of any law applicable thereto, or

(*3*) construct, or widen, strengthen or otherwise improve, bridges

Provided that no guarantee or subsidy shall be made under clause (*1*), and no means of locomotion shall be constructed, maintained or worked under clause (*2*), without the sanction of the Local Government

Telegraph and Railways Acts.

Saving of Telegraph and Railways Acts

150. Nothing in this Act shall be deemed to affect the provisions of the Indian Telegraph Act, 1885[1], or the Indian 1
Railways Act, 1890[2]. 9

Legal Proceedings

Cognizance of offences

151. Notwithstanding anything contained in the Code of 5
Criminal Procedure, 1898[3],

all offences against this Act or any rule made hereunder shall, wherever committed, be cognizable by a Presidency Magistrate;

and no such Magistrate shall be deemed to be incapable of taking cognizance of any such offence by reason only of being liable to pay any tax imposed by this Act or of his being

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[1] Printed in the General Acts, 1879-86, Ed. 1909, p. 573.
[2] Printed in the General Acts, 1887-97, Ed. 1909, p. 932.
[3] Printed in the General Acts, 1898-03, Ed. 1909, p. 39.

(Chapter VIII.—Supplemental Provisions.—Secs. 152-156.)

benefited by the funds to the credit of which any fine imposed by him will be payable.

Limitation of time for prosecution.

152. No person shall be liable to punishment for any offence against this Act or any rule made hereunder unless complaint of such offence is made before a Presidency Magistrate within three months next after the commission of such offence.

Power to hear case in absence of accused when summoned to appear.

153. If any person, who has been summoned to appear before a Presidency Magistrate to answer a charge of an offence against this Act or any rule made hereunder which is punishable with fine only, fails to appear at the time and place mentioned in the summons, the Magistrate may, if service of the summons is proved to his satisfaction, and if no sufficient cause is shown for the non-appearance of such person, hear and determine the case in his absence.

Powers of Chairman as to institution, etc., of legal proceedings and obtaining legal advice.

154. The Chairman may, subject to the control of the Board,—

(*a*) institute, defend or withdraw from, legal proceedings under this Act or any rule made hereunder;

(*b*) compound any offence against this Act or any rule made hereunder which, under any law for the time being in force, may lawfully be compounded;

(*c*) admit, compromise or withdraw any claim made under this Act or any rule made hereunder; and

(*d*) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain, or as he may be desired by the Board to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Board or any officer or servant of the Board.

Indemnity to Board.

155. No suit shall be maintainable against the Board, or any Trustee, or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any officer or servant of the Board, in respect of anything lawfully and in good faith and with due care and attention done under this Act or any rule made hereunder.

[illegible]

156. No suit shall be instituted against the Board, or any Trustee, or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any officer or servant of the Board, in respect of any act purporting to be done under this Act or any rule made hereunder,

until the expiration of one month next after written notice has been delivered or left at the Board's office or the place of

abode of such officer, servant or person, stating the cause of action, the name and place of abode of the intending plaintiff, and the relief which he claims,

and the plaint must contain a statement that such notice has been so delivered or left

Police

Co operation of the Police

157. (*1*) The Commissioner of Police and his subordinates shall be bound to co operate with the Chairman for carrying into effect and enforcing the provisions of this Act

(*2*) It shall be the duty of every police-officer who is subordinate to the Commissioner of Police—

(*i*) to communicate without delay to the proper officer or servant of the Board any information which he receives of a design to commit or of the commission of any offence against this Act or any rule made hereunder, and

(*ii*) to assist the Chairman or any officer or servant of the Board reasonably demanding his aid for the lawful exercise of any power vesting in the Chairman or in such officer or servant under this Act or any such rule

Arrest of offenders

158. (*1*) Every police officer shall arrest any person who commits, in his view, any offence against this Act or any rule made hereunder, if the name and address of such person be unknown to him, and if such person, on demand, declines to give his name and address, or gives a name or address which such officer has reason to believe to be false

(*2*) No person so arrested shall be detained in custody after his true name and address are ascertained or without the order of a Magistrate, for any longer time, not exceeding at the most twenty-four hours from the arrest, than is necessary for bringing him before a Magistrate

(*3*) On the written application of the Chairman, any police-officer above the rank of constable shall arrest any person who obstructs any officer or servant of the Board in the exercise of any of the powers conferred by this Act or any rule made hereunder.

Evidence

Proof of consent etc of Board or Chairman or officer or servant of Board

159. Whenever, under this Act or any rule made hereunder, the doing or the omitting to do anything or the validity of anything depends upon the approval sanction, consent, concurrence, declaration opinion or satisfaction of—

(*a*) the Board or the Chairman, or

(*b*) any officer or servant of the Board,

a written document, signed in case (a) by the Chairman, and in case (b) by the said officer or servant purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence of such approval, sanction, consent, concurrence, declaration, opinion or satisfaction.

Validation

Validation of acts and proceedings.

160. (1) No act done or proceeding taken under this Act shall be questioned on the ground merely of—

(a) the existence of any vacancy in, or any defect in the constitution of, the Board or any Committee, or

(b) any person having ceased to be a Trustee, or

(c) any Trustee, or any person associated with the Board under section 19, or any other member of a Committee appointed under this Act having voted or taken any other part in any proceeding in contravention of section 23, or

(d) the failure to serve a notice under section 15 on any person, where no substantial injustice has resulted from such failure, or

(e) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Board, the minutes of the proceedings of which have been duly signed as prescribed in section 18, clause (h), shall be taken to have been duly convened and to be free from all defect and irregularity.

Compensation

General power of Board to pay compensation.

161. In any case not otherwise expressly provided for in this Act, the Board may pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act or any rule made or scheme sanctioned hereunder, in the Board or the Chairman or any officer or servant of the Board.

Compensation to be paid by offenders for damage caused by them.

162. (1) If, on account of any act or omission, any person has been convicted of an offence against this Act or any rule made hereunder, and, by reason of the same act or omission of the said person, damage has occurred to any property of the Board, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence.

(3) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said Magistrate, as if it were a fine inflicted by him on the person liable therefor.

Public Notices and Advertisements.

Public notices how to be made known

163. Every public notice given under this Act or any rule made hereunder shall be in writing over the signature of the Chairman,

and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of drum or by advertisement in local newspapers, or by any two or more of these means, and by any other means that the Chairman may think fit.

Newspapers in which advertisements or notices to be published

164. Whenever it is provided by this Act or any rule made hereunder that notice shall be given by advertisement in local newspapers or that a notification or any information shall be published in local newspapers, such notice, notification or information shall be inserted, if practicable, in at least two English newspapers and two vernacular newspapers.

Signature and Service of notices or bills.

Stamping signature on notices or bills

165. Every notice or bill, which is required by this Act or by any rule made hereunder to bear the signature of the Chairman or of any other Trustee or of any officer or servant of the Board, shall be deemed to be properly signed if it bears a *facsimile* of the signature of the Chairman or of such other Trustee or of such officer or servant, as the case may be, stamped thereupon.

Service how to be effected

166. When any notice, bill or other document is required by this Act or any rule made hereunder to be served upon or issued or presented to any person, such service, issue or presentation shall be effected—

(*a*) by giving or tendering such document to such person; or

(*b*) if such person is not found, by leaving such document at his last known place of abode in Calcutta or by giving or tendering the same to some adult male member or servant of his family; or

(*c*) if such person does not reside in Calcutta, and his address elsewhere is known to the Chairman, by forwarding such document to him by registered post under cover bearing the said address; or

(d) if none of the means aforesaid be available by causing a copy of such document to be affixed on some conspicuous part of the land (if any) to which the document relates

Surveys

167. The Board may— Power to make surveys or contribute towards their cost

(a) cause a survey of any land to be made whenever they consider that a survey is necessary or expedient for carrying out any of the purposes of this Act or

(b) contribute towards the cost of any such survey made by any other local authority

Power of Entry

168 (1) The Chairman may with or without assistants or workmen enter into or upon any land in order— Power of entry

(a) to make any inspection survey measurement valuation or inquiry

(b) to take levels

(c) to dig or bore into the subsoil

(d) to set out boundaries and intended lines of work

(e) to mark such levels boundaries and lines by placing marks and cutting trenches or

(f) to do any other thing

whenever it is necessary to do so for any of the purposes of this Act or any rule made or scheme sanctioned hereunder or any scheme which the Board intend to frame hereunder

Provided as follows —

(a) no such entry shall be made between sunset and sunrise

(b) no dwelling house and no public building or hut which is used as a dwelling place shall be so entered unless with the consent of the occupier thereof without giving the said occupier at least twenty four hours previous written notice of the intention to make such entry

(c) sufficient notice shall in every instance be given even when any premises may otherwise be entered without notice to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed

(*d*) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered

(*2*) Whenever the Chairman enters into or upon any land in pursuance of sub section (*1*), he shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the Board, whose decision shall be final

Penalties

Punishment for acquiring share or interest in contract etc with the Board

169. If any Trustee, or any officer or servant of the Board, knowingly acquires, directly or indirectly, by himself or by any partner, employer or employé, otherwise than as such Trustee, officer or servant any share or interest in any contract or employment with, by, or on behalf of, the Board,

not being a share or interest such as, under sub-section (*2*) of section 9, it is permissible for a Trustee to have without being thereby disqualified for being appointed a Trustee,

he shall be deemed to have committed the offence made punishable by section 168 [1] of the Indian Penal Code

Penalty for removing fence etc, in street

170. If any person, without lawful authority,—

(*a*) removes any fence or shoring-timber, or removes or extinguishes any light, set up under section 59, or

(*b*) infringes any order given, or removes any bar, chain or post fixed, under section 60, sub-section (*2*),

he shall be punishable with fine which may extend to fifty rupees

Penalty for building within street alignment or building line fixed by Board

171. If any person, without the permission of the Board, erects, re-erects, adds to, or alters any building or wall so as to make the same fall within the street alignment or building line shown in any plan finally adopted by the Board under section 63, he shall be punishable—

(*a*) with fine which may extend, in the case of a masonry building or a wall, to five hundred rupees, and, in the case of a hut, to fifty rupees, and

(*b*) with further fine which may extend, in the case of a masonry building or a wall, to one hundred rupees, and in the case of a hut, to ten rupees, for each day after the first during which the projection continues

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[1] Printed in the General Acts 1834 67, Ed 1909, p 289

of 1911.]

(Chapter VIII.—Supplemental Provisions.—Secs. 172-176.)

172. If any person fails to set back any building, wall or part thereof when so required by notice issued under section 63, sub-section (6), he shall be punishable— Penalty for failure to set back building or wall on requisition.

(a) with fine which may extend to one hundred rupees; or

(b) in case of a continuing failure, with fine which may extend to twenty rupees for each day after the first during which the failure continues.

173. If any person fails to comply with any requisition made under section 131, he shall be punishable— Penalty for failure to comply with requisition made by auditor.

(a) with fine which may extend to one hundred rupees; or

(b) in case of a continuing failure, with fine which may extend to fifty rupees for each day after the first during which the failure continues.

174. If any person—

(a) obstructs or molests any person with whom the Chairman has entered into a contract on behalf of the Board in the performance or execution by such person of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Act or any rule made hereunder; or Penalty for obstructing contractor or removing mark.

(b) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized by this Act or any rule made or scheme sanctioned hereunder,

he shall be punishable with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to two months.

Disposal of Fines and Damages.

175. All fines and damages realized and the proceeds of all confiscations in cases in which prosecutions are instituted under this Act or any rule made hereunder shall be paid to the Board. Fines, damages and proceeds of confiscations to be paid to Board.

Suspension or abolition and re-imposition of taxation or Municipal contributions.

176. (1) Whenever the Local Government considers that any duty or tax imposed by Chapter V or any payment required by section 88 or any portion of any such duty, tax or payment, as the case may be, is not required for the purposes Suspension or abolition and re-imposition of taxation or Municipal contributions.

of this Act, it may, by notification, with the previous sanction of the Government of India,—

(*a*) suspend for any specified period the levy of such duty or tax or any specified portion thereof or the making of such payment or any specified portion thereof, or

(*b*) abolish such duty, tax or payment or any specified portion thereof from a date to be specified in the notification.

(*2*) If at any time the Local Government considers that any duty, tax or payment or any portion thereof which has been suspended or abolished under sub-section (*1*) is required for the purposes of this Act, it may, by notification, with the previous sanction of the Government of India, cancel such suspension or abolition wholly or in part, as it may think fit, from a date to be specified in the notification.

Dissolution of Board.

Ultimate dissolution of Board and transfer of its assets and liabilities to the Corporation.

177. (*1*) When all schemes sanctioned under this Act have been executed or have been so far executed as to render the continued existence of the Board, in the opinion of the Local Government, unnecessary, the Local Government may, by notification, with the previous sanction of the Government of India, declare that the Board shall be dissolved from such date as may be specified in this behalf in such notification; and the Board shall be deemed to be dissolved accordingly.

(*2*) From the said date—

(*a*) all properties, funds and dues which are vested in or realizable by the Board and the Chairman respectively shall vest in and be realizable by the Corporation and the Chairman of the Corporation respectively; and

(*b*) all liabilities which are enforceable against the Board shall be enforceabl

(*c*) for the purpose of scheme sanctione been fully executed by the Board and of realizing properties, funds and dues referred to in clause (*a*) the functions of the Board and the Chairman under this Act shall be discharged by the Corporation and the Chairman of the Corporation respectively; and

(*d*) the Corporation shall keep separate accounts of all moneys respectively received and expended by them under this Act until all loans raised hereunder have been repaid and until all other liabilities referred to in clause (*b*) have been duly met.

THE SCHEDULE.

(Referred to in section 71)

FURTHER MODIFICATIONS IN THE LAND ACQUISITION ACT, 1894[1].

1. After clause (e) of section 3 the following shall be deemed to be inserted, namely— Amendment of section 3

"(e1) the expression 'local authority' includes the Board of Trustees constituted under the Calcutta Improvement Act, 1911"

2. To section 11 the following shall be deemed to be added, namely — Amendment of section 11

"and

"(iv) the costs which, in his opinion, should be allowed, to any person who is found to be entitled to compensation, and who is not entitled to receive the additional sum of fifteen *per centum* mentioned in section 23, sub-section (2), as having been actually and reasonably incurred by such person in preparing his claim and putting his case before the Collector

"The Collector may disallow, wholly or in part, costs incurred by any person, if he considers that the claim made by such person for compensation is extravagant"

3. In section 15, for the word and figures "and 24" the figures, word and letter "24 and 24A" shall be deemed to be substituted Amendment of section 15

4. (1) In section 17, sub section (3), after the figures "24" the words, figures and letter "or section 24A" shall be deemed to be inserted Amendment of section 17

(2) To the said section 17 the following shall be deemed to be added, namely —

"(4) Sub-sections (1) and (3) shall apply also in the case of any area which is stated in a certificate granted by a salaried Presidency Magistrate or a Magistrate of the first class to be unhealthy

"(5) Before granting any such certificate, the Magistrate shall cause notice to be served as promptly as may be on the persons referred to in sub-section (3) of section 9, and shall hear without any avoidable delay any objections which may be urged by them

"(6) When proceedings have been taken under this section for the acquisition of any land, and any person sustains damage

[1] Printed in the General Acts 1887 97, Ed 1909, p 363

in consequence of being suddenly dispossessed of such land compensation shall be paid to such person for such dispossession

New section 17 A

5. After section 17 the following shall be deemed to be inserted namely —

17 A In every case referred to in section 16 or section 17 the Collector shall upon payment of the cost of acquisition make over charge of the land to the Board and the land shall thereupon vest in the Board subject to the liability of the Board to pay any further costs which may be incurred on account of its acquisition

Transfer of land to Board

Amendment of section 18

6. At the end of section 18 sub section (*1*) the words or the amount of the costs allowed shall be deemed to be inserted

Amendment of section 1

7 After the words amount of compensation in clause (*c*) of section 19 the words and of costs (if any) shall be deemed to be inserted

Amendment of section 20

8 After the words amount of the compensation in clause (*c*) of section 20 the words or costs shall be deemed to be inserted

Amendment of section 3

9 (*1*) In sub section (*2*) of section 23 after the words in every case the following shall be deemed to be inserted namely —

except where the land acquired is situated in the Calcutta Municipality and within the area comprised in an improvement scheme sanctioned under the Calcutta Improvement Act 1911

(*2*) At the end of section 23 the following shall be deemed to be added namely —

(3) For the purposes of clause *first* of sub section (*1*) of this section —

(*a*) the market value of the land shall be deemed to be the market value according to the disposition of the land at the date of the publication of the declaration relating thereto under section 6

(*b*) if it be shown that before such declaration was published the owner of the land had taken active steps and incurred expenditure to secure a more profitable disposition of the same further compensation based on his actual loss may be paid to him

(*c*) if the market value has been increased by means of any improvement made by the owner or his predecessor in interest within two years before the aforesaid declaration was published such increase shall be

disregarded, unless it be proved that the improvement was made *bonâ fide* and not in contemplation of proceedings for the acquisition of the land being taken under this Act ,

(*d*) if the market-value is specially high in consequence of the land being put to a use which is unlawful or contrary to public policy, that use shall be disregarded, and the market-value shall be deemed to be the market-value of the land if put to ordinary uses; and

(*e*) if the market-value of any building is specially high in consequence of the building being so over-crowded as to be dangerous to the health of the inmates, such over-crowding shall be disregarded and the market-value shall be deemed to be the market value of the building if occupied by such number of persons only as could be accommodated in it without risk of danger from over-crowding "

10. For clause *seventhly* of section 24 the following shall be deemed to be substituted, namely — Amendment of section 24

"*seventhly*, any outlay on additions or improvements to land acquired, which was incurred after the date of the publication of the declaration under section 6, unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair "

11. After section 24 the following shall be deemed to be inserted, namely — New section 24A

"24A In determining the amount of compensation to be awarded for any land acquired for the Board under this Act the Tribunal shall also have regard to the following provisions namely,—

Further provisions for determining compensation

(*1*) when any interest in any land acquired under this Act has been acquired after the date of the publication of the declaration under section 6 no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land ,

(*2*) if in the opinion of the Tribunal, any building is in a defective state from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation shall not exceed the sum which the Tribunal considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may

be, *minus* the estimated cost of putting it into such condition or state,

(3) if, in the opinion of the Tribunal, any building, which is used or is intended or is likely to be used for human habitation, is not reasonably capable of being made fit for human habitation the amount of compensation shall not exceed the value of *the materials of the building, minus* the cost of demolishing the building"

Amendment of section 31

12. (1) After the words "the compensation" in sub section (1) of section 31, and after the words "the amount of the compensation" in sub-section (2) of that section the words "and *costs (if any)" shall be deemed to be inserted.*

(2) After the words "any compensation" in the concluding proviso to sub-section (2) of section 31 the words "or costs" shall be deemed to be inserted

New sections 34A and 48B

13. After section 48 the following shall be deemed to be inserted, namely —

"48A (1) If, within a period of two years from the date of the publication of the declaration under section 6, in respect of any land, the Collector has not made an award under section 11 *with respect to such land, the owner of* the land shall be entitled to receive compensation for the damage suffered by him in consequence of the delay

Compensation to be awarded when land not acquired within two years

(2) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section

"48B No compensation shall be payable in pursuance of section 48 or section 48A when proceedings for the acquisition of land have been abandoned on the execution of an agreement, or the acceptance of a payment, in pursuance of sub-section (4) of section 78 of the Calcutta Improvement Act, 1911."

Sections 48 and 48A not to apply in certain cases

Amendment of section 49

14. After sub-section (1) of section 49, the following shall be deemed to be inserted, namely —

"(1a) For the purposes of sub-section (1), land which is held with and attached to a house and is reasonably required for the enjoyment and use of the house shall be deemed to be part of the house"

BENGAL ACT I OF 1912

[THE CALCUTTA PORT (AMENDMENT) ACT, 1912][1]

(27th March, 1912.)

Act 3 ... 0

An Act further to amend the Calcutta Port Act, 1890.[2]

Whereas it is expedient further to amend the Calcutta Port Act, 1890[2] in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. This Act may be called the Calcutta Port (Amendment) Act, 1912. Short title.

2. For sections 49 and 50 of the Calcutta Port Act, 1890[2] the following shall be substituted, namely:— Amendment of Bengal Act III of 1890, sections 49 and 50.

49, 50. [Printed in Vol. II of this Code.]

3. For section 73 of the said Act[3] the following shall be substituted, namely:— Amendment of section 73.

73. [Printed in Vol. II of this Code.]

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BENGAL ACT 2 OF 1912

[THE BENGAL MINING SETTLEMENTS ACT 1912]

CONTENTS

SECTION

BENGAL ACT 2 OF 1912

[THE BENGAL MINING SETTLEMENTS ACT, 1912].[1]

(30th March, 1912)

An Act to provide for the better control and sanitation of Mining Settlements in Bengal.

Whereas it is expedient to provide for the better control and sanitation of mining settlements in Bengal,

It is hereby enacted as follows —

Short title and extent

1. *(1)* This Act may be called the Bengal Mining Settlements Act, 1912, and

(2) It extends to the whole of Bengal[2] [*including the Sonthal Parganas*]

Definitions

2. The expressions "agent," "employed," "mine" and "owner," as used in this Act, shall have the same meaning as in section 3[3] of the Indian Mines Act, 1901

Appointment of Mines Board of Health

3. *(1)* The Local Government may, by notification in the local official Gazette, appoint[4], for any area or areas in which persons employed in a mine reside, a Mines Board of Health consisting of not less than five or more than nine persons, and shall appoint one of the members to be Chairman

(2) Two of the persons appointed under sub-section *(1)* shall be nominated by owners of mines or their representatives

Provided that, if the Board consists of more than five members, three shall be so nominated

(3) One of the persons appointed under sub-section *(1)* shall be nominated by persons who receive royalties, rents or fines from mines

(4) Nominations under sub section *(2)* or sub-section *(3)* must be made under such procedure, and within such period, as may be prescribed by rules made under this Act, and, in default of nomination in accordance with such rules, the Local Government may appoint any person it thinks fit

Procedure for declaring area to be a mining settlement

4. *(1)* The Local Government may, of its own motion, or after considering any report submitted to it by a Mines Board of Health, publish a notice in the local official Gazette

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[illegible]

Idem Pt I, p 41

and in such other manner (if any) as it may think fit intimating its intention to declare any area (not being or forming part of a mine) to be a mining settlement for the purposes of this Act

(2) The Local Government shall consider any objections to the intended declaration which may be submitted to it in writing within such period as may be specified in this behalf in the said notice

and may then by notification in the local official Gazette declare that any area or portion of an area referred to in the said notice shall for the purposes of this Act be a mining settlement and be subject to the authority of such Mines Board of Health as the Local Government may designate

Appointment status and duties of Sanitary Officers

5 (*1*) The Local Government shall appoint as many Sanitary Officers as it may consider necessary for mining settlements and shall declare the Mines Board of Health to which each such officer shall be subordinate

(*2*) Every Sanitary Officer shall be deemed to be a public servant within the meaning of the Indian Penal Code[1]

(*3*) It shall be the duty of a Sanitary Officer appointed to a mining settlement or any part thereof—

(*a*) to report to the Mines Board of Health what measures should in his opinion be taken—

(*i*) to provide for the supply of filtered boiled or other water,

(*ii*) to provide for sanitation and conservancy and

(*iii*) to provide for the housing of residents and

(*b*) to exercise subject to the control of the Mines Board of Health to which he is subordinate such other functions consistent with the objects of this Act and calculated to prevent the outbreak or spread of dangerous epidemic disease as the Local Government may by general or special order direct or as may be delegated to him by such Board

Notice requiring owners to execute and maintain works of sanitation or to carry on periodical sanitary operations

6. (*1*) If the Mines Board of Health approve any measures reported by a Sanitary Officer under clause (*a*) of sub section (*3*) of section 5

or if they consider that any other measures should be taken to provide for any of the purposes referred to in that clause

the Board shall serve —

(*a*) on the owners of all mines in which are employed persons residing in the mining settlement or in the part of the mining settlement to which such measures relate or

(*b*) on the holders of the land occupied by such mining settlement or part if they are not the owners of the said mines

[1] Printed in the General Acts 1834-67 Ed 1 p 218

(*Secs. 7-10*)

a notice specifying such measures and requiring such owners or landholders—

(*i*) to execute within a period to be fixed by the notice, all works that the Board may consider necessary for carrying such measures into effect, and to maintain in good repair all works so executed, or

(*ii*) to carry on continuously such periodical operations as the Board may direct, for carrying such measures into effect or

(*iii*) both to execute and maintain works and to carry on operations as aforesaid

(*2*) Nothing in this section shall apply to landholders other than *proprietors, permanent tenure-holders*, rent-free holders or holders of a maintenance grant

Power for Mines Board of Health to execute work in default of owners

7. If any work required by a notice served under section 6 be not executed to the satisfaction of the Board within the period fixed by the notice, or within such further period (if any) as may be allowed by the Board, or

if any work executed in pursuance of any such notice be not maintained in repair to the satisfaction of the Board, or

if any operations required by any such notice be not carried on to the satisfaction of the Board,

the Board, after serving a warning notice on the defaulters, shall prepare an estimate of the cost of the work which ought, in their opinion, to be carried out, and may entertain any establishment necessary for the preparation of such estimate, and may also cause such work to be executed

Power for Chairman to discharge functions of Board in certain cases

8. Any of the powers or duties conferred or imposed by *section 6 or section 7* upon a *Mines Board of Health* may be exercised or performed by the Chairman of the Board in any case which he considers to be of such urgency as to render it impracticable to hold a meeting of the Board

Service of notices

9. Any notice sent by post under section 6 or section 7 shall be forwarded under registered cover

Charging apportionment and recovery of expenses

10. (*1*) All expenses incurred by a Mines Board of Health for the purposes of this Act, other than expenses under section 7 and section 8 shall be charged to—

(*a*) all owners of mines in which are employed persons residing in the mining settlements which are subject to the authority of that Board, and

(*b*) all persons who receive any royalty, rent or fine from such mines

(*2*) All expenses incurred by a Mines Board of Health under *section 7*, or by the Chairman thereof under *section 8* whether or not they exceed the estimate prepared under the former section,

and all expenses incurred by any holder of land in executing or maintaining any work or carrying on any operations in pursuance of a notice served under clause (*b*) of sub section (*1*) of section 6

shall be charged to—

(*i*) all owners of mines in which are employed persons residing in the settlement or part and

(*ii*) all persons who receive any royalty rent or fine from such mines

Provided that if it can be shown to the satisfaction of the Board that the insanitary condition is distinctly referable to any act or omission on the part of one or more mine owners in respect to his or their property the Board may direct that the expenses incurred shall be payable by such owner or owners only

(*3*) Save in the case specified in the proviso to sub section (*2*) the expenses referred to in sub sections (*1*) and (*2*) shall be charged to the said owners and persons in such proportions as the Local Government may from time to time direct

Provided that the assessment shall be based—

(*i*) in the case of owners of mines on the output of their mines and

(*ii*) in the case of the receivers of any royalty rent or fine on the road cess payable by such persons

(*4*) All expenses chargeable under this section shall be recoverable as if they were arrears of land revenue

(*5*) When any expenses incurred by any holder of land in executing or maintaining any work or carrying on any operations in pursuance of a notice served under clause (*b*) of sub section (*1*) of section 6 have been recovered they shall be repaid to him

Provided that if any question arises as to the amount of expenses incurred by such landholder the award of the Mines Board of Health shall subject to an appeal to the Commissioner be final

Power to make rules

11. (*1*) The Local Government may by notification in the local official Gazette make rules [1] for carrying out the purposes and objects of this Act in respect of all mining settlements or any groups or classes of mining settlements

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may—

(*a*) provide for the nomination appointment and tenure of office of members of a Mines Board of Health and regulate the procedure of such Board and the powers and functions of the Chairman

[1] For rules made under this section—see Notification No 4100 dated the [illegible] August 1913 published in the Calcutta Gazette dated the 20th August 1913 Pt I p 1117

(*Sec 11*)

(*b*) regulate all expenditure to be incurred by a Mines Board of Health and the methods under which sums due to it may be calculated and recovered

(*c*) regulate the duties and powers of Sanitary Officers and provide for appeals from their orders

(*d*) prescribe the duties of owners agents and managers of mines in respect of mining settlements and of all persons acting under them

(*e*) prescribe the matters in respect of which notices returns and reports shall be furnished by owners agents and managers of mines the form of such notices returns and reports the persons and authorities to whom they are to be furnished and the particulars to be contained in them

(*f*) prescribe the plans (if any) to be kept by owners agents and managers of mines in respect of mining settlements and the manner and places in which they are to be kept for purposes of record

(*g*) provide for the supply of filtered boiled or other water and for sanitation and conservancy in mining settlements

(*h*) provide for the taking of measures to prevent the outbreak or spread of dangerous epidemic disease in mining settlements

(*i*) provide against the accumulation of water in mining settlements

(*3*) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication[1]

(*4*) The date to be specified as that on or after which a draft of rules proposed to be made under this section will be taken into consideration shall not be less than three months from the date on which the draft of the proposed rules was published for general information

01 (*5*) Where a Mining Board has been constituted under section 9[2] of the Indian Mines Act 1901 any rule to be made under this Act shall before it is published for criticism under sub section (*3*) be referred to the Mining Board and the rule shall not be so published until the said Board has been consulted as to the suitability of its provisions

(*6*) All rules made under this section shall be published in the local official Gazette and on such publication shall have effect as if enacted in this Act

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[1] As to previous publication *see* the Bengal General Clauses Act 1899 (Ben Act I of 1899) [illegible] 18

[2] [illegible]ed in the General Acts 1898-03 Ed 1909 p 590

(*Secs* 12 15)

Powers of Sanitary Officers

12. A Sanitary Officer may within any *mining settlement* for which he is appointed —

(*a*) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the rules and orders made thereunder are observed

(*b*) enter with such assistants (if any) as he thinks fit inspect and examine any mining settlement or any part thereof at all reasonable times by day or by night

(*c*) examine into and make inquiry respecting the sanitary condition of any mining settlement or any part thereof and the sufficiency of the rules for the time being in force in the settlement and

(*d*) do all other things required of him by or under this Act

Facilities to be afforded to Sanitary Officers

13. The owners agents and managers of mines in which are employed persons residing in any mining settlement or the owners of the land occupied by such settlement if they are not the owners of such mines

shall furnish the Sanitary Officer on requisition with all reasonable facilities for making any entry inspection examination or inquiry under this Act in relation to the sanitary condition of such settlement

Powers of Mines Boards of Health to obtain evidence

14. A Mines Board of Health shall have the powers of a Civil Court for the purpose of enforcing the attendance of witnesses and compelling the production of documents and every person required by any such Board to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176[1] of the Indian Penal Code 45

Penalties for offence

15. (*1*) Whoever obstructs any Sanitary Officer in the discharge of his duties under this Act or refuses or wilfully neglects to furnish him with the means necessary for making any entry inspection examination or inquiry thereunder in relation to any mining settlement shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both .

(*2*) Whoever makes gives or delivers any notice or return required by or under this Act which contains a statement entry or detail which is not to the best of his knowledge or belief true shall be punishable with fine which may extend to five hundred rupees

(*3*) Whoever—

(*a*) fails to comply with any requisition or order made under any provision of this Act or of any rule or order made thereunder or

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[1] Printed in the General Acts 1834 67 Ed 1909 p 29?

(*Secs 16-19*)

(*b*) contravenes any provision of this Act or any rule or order thereunder, for the breach of which no penalty is otherwise provided,

shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing breach under clause (*a*) of this sub section, with a further fine which may extend to fifty rupees for every day during which the breach is proved to have been persisted in after the date of the receipt by him of the requisition or order referred to in that clause

(*4*) All fines realised under this section shall be made over to the Mines Board of Health at whose instance the prosecution was instituted, to be employed in furtherance of the objects of this Act

16. No prosecution shall be instituted against any owner, agent or manager of a mine for any offence against this Act or any rule or order thereunder except at the instance of a Mines Board of Health — Prosecution of owner agent or manager

17. No Court shall take cognizance of any offence against this Act or any rule or order thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed — Limitation of prosecutions

18. No Court inferior to that of a Magistrate of the first class or Sub divisional Magistrate shall try any offence against this Act or any rule or order thereunder which— — Cognizance of offences

(*a*) is alleged to have been committed by any owner, agent or manager of a mine, or

(*b*) is punishable with imprisonment

19. The Local Government may reverse or modify any order passed under this Act by any authority — Power of Local Government to alter or rescind orders

BENGAL ACT I of 1913

[The Calcutta Burial Boards (Amendment) Act, 1913][1].

(The 2nd April, 1913.)

An Act to amend section 14 of the Calcutta Burial Boards Act, 1889.

Whereas it is expedient to amend section 14 of the Calcutta Burial Boards Act, 1889[2];

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Calcutta Burial Boards (Amendment) Act, 1913.

Amendment of section 14 of Bengal Act 4 of 1889.

2. For section 14 of the Calcutta Burial Boards Act, 1889[2], the following shall be substituted, namely:—

[Printed in Vol. II of this Code.]

Repeal of the Second Schedule to Bengal Act 4 of 1889.

3. The Second Schedule to the Calcutta Burial Boards Act, 1889[2], is hereby repealed.

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[1] Legislative Papers.—For Statement of Objects and Reasons, see Calcutta Gazette, 1913, Pt. IV, p. 49; for Report of Select Committee, see ibid., Pt. IV, p. 65; for Proceedings in Council, see ibid., Pt. IVA, pp. 15, 16, 26, 38 and 189.

Local Extent.—The local extent of this Act is the same as that of Bengal Act 4 of 1889, printed in Vol. II of this Code.

[2] Printed in Vol. II of this Code.

BENGAL ACT 2 OF 1913

(THE BENGAL BOARD OF REVENUE ACT, 1913)[1]

(The 23rd April, 1913)

An Act to alter the constitution of the Board of Revenue for Bengal.

Whereas it is expedient to alter the constitution of the Board of Revenue for Bengal,

And whereas the sanction of the Governor General has been obtained under section 5[2] of the Indian Councils Act, 1892, to the passing of this Act,

It is hereby enacted as follows —

1. This Act may be called the Bengal Board of Revenue Act, 1913 — Short title

2. The Board of Revenue for the Presidency of Fort William in Bengal shall be called the Board of Revenue for Bengal[3] — Designation of Board

3. The said Board shall consist of one Member only, to be appointed by the Local Government by notification in the local official Gazette — Number of Members of Board

Provided that the Local Government may at any time by like notification, with the previous sanction of the Government of India, appoint a temporary additional Member

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[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons see Calcutta Gazette 1913 Pt IV p 5 for Report of the Select Committee see ibid Pt IV p 62, for Proceedings in Council see ibid Pt IVA pp 13 14 22 to 26 and 399

LOCAL EXTENT —This Act extends to the whole of the present Presidency of Fort William in Bengal

The application of this Act is barred in the Chittagong Hill tracts by the Chittagong Hill tracts Regulation 1900 (1 of 1900) s 4(2) printed in Vol I of this Code

[2] Printed in the Collection of Statutes relating to India 1913 Vol II p 804

[3] As to where the Board is to be stationed and where members are to reside see the Bengal Revenue Commissioners Regulation 1899 (1 of 1899) s 4(1) (2) in Vol I of this Code

The Board of Revenue is the Court of Wards see the Court of Wards Act 1879 (Ben Act 9

al Revenue Commissioners

(1) th

(2) th Vol I of this

n authority

(3) the Bengal Revenue Commissioners Regulation 1899 (1 of 1899) s 4 clause 1 in Vol I of this Code (Commissioners of Divisions)

and see also—

(4) the Chittagong Hill tracts Regulation 1900 (1 of 1900) s 7 in Vol I of this Code which vests the general administration of the Chittagong Hill tracts in Revenue and other matters, in the Superintendent of those Tracts

As to the control of Commissioners by the Board see the Bengal Revenue Commissioners Regulation 1899 (1 of 1829) s 4 (1) in Vol I of this Code

(*Secs.* 4-7)

Powers and duties of additional Member

4. An additional Member of the Board of Revenue appointed under the proviso to section 3 shall exercise and perform such powers and duties of the Board as the Local Government *may* direct.

Construction of references to former Boards

5. All references in any enactment, or in any notification, order, scheme, rule, form or by-law issued, made or prescribed under any enactment, to—

(*a*) the Board of Revenue as constituted under the Bengal Board of Revenue Regulation, 1822[1], and under clause *First* of section 4 of the Bengal Revenue Commissioners Regulation, 1829[2], or

(*b*) the Board whose functions were transferred to the said Board of Revenue by the Bengal Board of Revenue Act, 1850[1],

shall be construed as references to the Board as re-constituted by or under this Act.

Review of orders by Board

6. (*1*) Any person considering himself aggrieved by any order of the Board of Revenue may apply to the Board for a review of the same; and, if the Board considers there are sufficient reasons for so doing, it may review the order and pass such further order as it thinks fit

(*2*) Every application under sub-section (*1*) for a review of any order must be made within a period of three months from the date of the order

Provided that the Board may, in its discretion, in any case extend such period, if sufficient reasons be shown for so doing

Repeal

7. The enactments *specified in the Schedule* are hereby repealed, to the extent mentioned in the fourth column thereof

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[1] *Ben Reg 3 of 1822 and Act 44 of 1850, which are printed in Vol I of this Code are repealed* by this Act *see* the Schedule

[2] Printed in Vol I of this Code

(*The Schedule*)

THE SCHEDULE

ENACTMENTS REPEALED

(*See section 7*)

1	2	3	4
Year.	No	Short title	Extent of repeal
		Bengal Regulation	
1822	3	The Bengal Board of Revenue Regulation, 1822	So much as is unrepealed
		Acts of the Governor General of India in Council	
1850	11	The Bengal Board of Revenue Act, 1850	So much as is unrepealed
1874	15	The Laws Local Extent Act, 1874	So much of the fourth Schedule as relates to Bengal Regulation 3 of 1822 and Act 11 of 1850
1891	12	The Amending Act, 1891	So much of the second Schedule as relates to Bengal Regulation 3 of 1822
1903	1	The Repealing and Amending Act, 1903	So much of the second Schedule as relates to Bengal Regulation 3 of 1822

BENGAL ACT 3 OF 1913

(THE BENGAL PUBLIC DEMANDS RECOVERY ACT, 1913)

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BENGAL ACT 3 OF 1913

(The Bengal Public Demands Recovery Act, 1913)[1]

(The 30th April, 1913)

An Act to consolidate and amend the law relating to the recovery of public demands in Bengal.

Whereas it is expedient to consolidate and amend the law relating to the recovery of public demands in Bengal;

And whereas the previous sanction of the Governor General has been obtained under section 5 of the Indian Councils Act, 1892, to the passing of this Act;

It is hereby enacted as follows:—

PART I

Preliminary

1. (1) This Act may be called the Bengal Public Demands Recovery Act, 1913; — *Short title, commencement and extent*

(2) It shall come into force on such date[3] as the Local Government may appoint by notification in the Calcutta Gazette; and

(3) It extends to the whole of Bengal.

2. The following enactments are hereby repealed, namely:— — *Repeal*

(a) the Public Demands Recovery Act, 1895, and

(b) the Bengal Public Demands Recovery (Amendment) Act, 1897.

3. In this Act, unless there is anything repugnant in the subject or context,— — *Definitions*

(1) "certificate-debtor" means the person named as debtor in a certificate filed under this Act and includes any

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Reasons see Calcutta Gazette 1913, Pt. IV pp. [illegible] to 7[illegible] for proceedings in [illegible]

[illegible] present Presidency of Bengal, see [illegible]

s. 1 (3) [illegible]

see s. 60 post, p. 806

Stay of Proceedings.—As to stay of proceedings under this Act in certain cases, see the [illegible] this Code [illegible] p. 804

[illegible] May, 1913 published in [illegible]

person whose name is substituted or added as debtor by the Certificate-officer;

(*2*) "certificate-holder" means the Secretary of State for India in Council or other person in whose favour a certificate has been filed under this Act, and includes any person whose name is substituted or added as creditor by the Certificate-officer;

(*3*) "Certificate-officer" means a Collector, a Sub-divisional officer, and any officer appointed by a Collector, with the sanction of the Commissioner, to perform the functions of a Certificate-officer under this Act;

(*4*) "movable property" includes growing crops;

(*5*) "prescribed" means prescribed by rules;

(*6*) "public demand" means any arrear or money mentioned or referred to in Schedule I, and includes any interest which may, by law, be chargeable thereon up to the date on which a certificate is signed under Part II; and

(*7*) "rules" means rules and forms contained in Schedule II or made under section 39.

PART II.

FILING, SERVICE AND EFFECT OF CERTIFICATES, AND HEARING OF OBJECTIONS THERETO.

Filing of certificate for public demand payable to Collector

4. When the Certificate-officer is satisfied that any public demand payable to the Collector is due, he may sign a certificate, in the prescribed form, stating that the demand is due, and shall cause the certificate to be filed in his office.

Requisition for certificate in other cases

5. (*1*) When any public demand payable to any person other than the Collector is due, such person may send to the Certificate-officer a written requisition in the prescribed form.

(*2*) Every such requisition shall be signed and verified in the prescribed manner, and, except in such cases as may be prescribed, shall be chargeable with the fee of the amount which would be payable under the Court-fees Act, 1870[1], in respect of a plaint for the recovery of a sum of money equal to that stated in the requisition as being due. 1 of

Filing of certificate on requisition.

6. On receipt of any such requisition, the Certificate-officer, if he is satisfied that the demand is recoverable and that recovery by suit is not barred by law, may sign a certificate, in the prescribed form, stating that the demand is

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[1] Printed in the General Acts, 1868-78, Ed 1909, p 102.

due; and shall include in the certificate the fee (if any) paid under section 5, sub-section (2), and shall cause the certificate to be filed in his office.

7. When a certificate has been filed in the office of a Certificate-officer under section 4 or section 6, he shall cause to be served upon the certificate-debtor, in the prescribed manner, a notice in the prescribed form and a copy of the certificate. Service of notice and copy of certificate on certificate-debtor.

8. From and after the service of notice of any certificate under section 7 upon a certificate-debtor,— Effect of service of notice of certificate.

(*a*) any private transfer or delivery of any of his immovable property situated in the district in which the certificate is filed, or of any interest in any such property, shall be void against any claim enforceable in execution of the certificate, and

(*b*) the amount due from time to time in respect of the certificate shall be a charge upon the immovable property of the certificate-debtor, wherever situated, to which every other charge created subsequently to the service of the said notice shall be postponed.

9. (*1*) The certificate-debtor may, within thirty days from the service of the notice required by section 7, or, where the notice has not been duly served, then within thirty days from the execution of any process for enforcing the certificate, present to the Certificate-officer in whose office the certificate is filed, or to the Certificate-officer who is executing the certificate, a petition, in the prescribed form, signed and verified in the prescribed manner, denying his liability, in whole or in part. Filing of petition denying liability.

(2) If any such petition is presented to a Certificate-officer other than the Certificate-officer in whose office the original certificate is filled, it shall be sent to the latter officer for disposal.

10. The Certificate-officer in whose office the original certificate is filed shall hear the petition, take evidence (if necessary), and determine whether the certificate-debtor is liable for the whole or any part of the amount for which the certificate was signed, and may set aside, modify or vary the certificate accordingly: Hearing and determining of such petition.

Provided that, if the Certificate-officer is not the Collector, and considers that the petition involves a *bonâ fide* claim of right to property, he shall refer the petition to the Collector for orders, and the Collector, if he is satisfied that a *bonâ fide* claim of right of property is involved, shall make an order cancelling the certificate.

PART III.

EXECUTION OF CERTIFICATES.

Who may execute certificate

11. A certificate filed under section 4 or section 6 may be executed by—

(*a*) the Certificate-officer in whose office the original certificate is filed, or

(*b*) the Certificate-officer to whom a copy of the certificate is sent for execution under section 12, sub-section (*1*).

Transmission of certificate to another Certificate-officer for execution

12. (*1*) A Certificate-officer in whose office a certificate is filed may send a copy thereof, for execution, to any other Certificate-officer in the same district or to the Collector of any other district.

(*2*) When a copy of a certificate is sent to any such officer, he shall cause it to be filed in his office, and thereupon the provisions of section 8 with respect to certificates filed in the office of a Certificate-officer shall apply as if such copy were an original certificate:

Provided that it shall not be necessary to serve a second notice and copy under section 7.

When certificate may be executed

13. No step in execution of a certificate shall be taken until the period of thirty days has elapsed since the date of the service of the notice required by section 7, or, when a petition has been duly filed under section 9, until such petition has been heard and determined:

Provided that, if the Certificate-officer in whose office a certificate is filed is satisfied that the certificate-debtor is likely to conceal, remove or dispose of the whole or any part of such of his movable property as would be liable to attachment in execution of a decree of a Civil Court, and that the realization of the amount of the certificate would in consequence be delayed or obstructed, he may at any time direct, for reasons to be recorded in writing, an attachment of the whole or any part of such movable property.

Modes of execution

14. Subject to such conditions and limitations as may be prescribed, a Certificate-officer may order execution of a certificate—

(*a*) by attachment and sale, or by sale (without previous attachment), of any property, or

(*b*) by attachment of any decree, or

(*c*) by arresting the certificate-debtor and detaining him in the civil prison, or

(*d*) by any two or all of the methods mentioned in clauses (*a*), (*b*) and (*c*).

Explanation to clause (d).—The Certificate-officer may, in his discretion, refuse execution at the same time against the person and property of the certificate-debtor.

(*Part III.—Execution of Certificates.—Secs 15-19.*)

15. Where a revenue-paying estate or any share therein is liable to sale in execution of a certificate, such sale may be held either— Certain sales by whom to be held.

(*a*) by the Certificate-officer exercising jurisdiction in the district to the revenue-roll of which the estate or share appertains, or

(*b*) by the Certificate-officer exercising jurisdiction in the district in which such estate or share is situated.

16. There shall be recoverable, in the proceedings in execution of every certificate filed under this Act,— Interest costs and charges recoverable.

(*a*) interest upon the public demand to which the certificate relates, at the rate of six and a quarter *per centum per annum* from the date of the signing of the certificate up to the date of realization,

(*b*) such costs as are directed to be paid under section 45, and

(*c*) all charges incurred in respect of—

(*i*) the service of notice under section 7, and of warrants and other processes, and

(*ii*) all other proceedings taken for realising the demand.

Attachment.

17. Property liable to attachment and sale in execution of a decree of a Civil Court may be attached and sold in execution of a certificate under this Act. Attachment of property.

18. Where an attachment has been made in execution of a certificate, any payment to the certificate-debtor of any debt, dividend or other moneys, contrary to such attachment, shall be void as against all claims enforceable under the attachment. Payment of moneys, contrary to attachment to be void.

19. (*1*) The attachment of a Civil Court decree for the payment of money or for sale in enforcement of a mortgage or charge shall be made by the issue to the Civil Court of a notice requesting the Civil Court to stay the execution of the decree unless and until— Attachment of decree.

(*i*) the Certificate-officer cancels the notice, or

(*ii*) the certificate-holder or the certificate-debtor applies to the Court receiving such notice to execute the decree.

(*2*) Where a Civil Court receives an application under clause (*ii*) of sub-section (*1*), it shall, on the application of the certificate-holder or the certificate-debtor, and subject to the provisions of the Code of Civil Procedure, 1908[1], proceed to

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[1] Printed in the General Acts 1904-09, Ed 1909, p 141.

execute the attached decree and apply the net proceeds in satisfaction of the certificate.

(*3*) The certificate-holder shall be deemed to be the representative of the holder of the attached decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

Sale.

Purchaser's title.

20. (*1*) Where property is sold in execution of a certificate, there shall vest in the purchaser merely the right, title and interest of the certificate-debtor at the time of the sale, even though the property itself be specified.

(*2*) Where immoveable property is sold in execution of a certificate, and such sale has become absolute, the purchaser's right, title and interest shall be deemed to have vested in him from the time when the property is sold, and not from the time when the sale becomes absolute.

(*3*) Notwithstanding anything contained in sub-section (*1*), in areas in which Chapter XIV of the Bengal Tenancy Act, 1885[1], is in force, where a tenure or holding is sold in execution of a certificate for arrears of rent due in respect thereof the tenure or holding shall, subject to the provisions of section 22 of that Act, pass to the purchaser, subject to the interests defined in that Chapter as "protected interests", but with power to annul the interests defined in that Chapter as "incumbrances": 8 (

Provided as follows:—

(*i*) a registered and notified incumbrance within the meaning of that Chapter shall not be so annulled except in the case prescribed; and

(*ii*) the power to annul shall be exercisable only in the manner prescribed.

(*4*) Where the certificate-holder is a co-sharer landlord and the certificate is for his share of the rent only, the provisions of sub-section (*3*) shall not apply.

Suit against purchaser not maintainable on ground of purchase being on behalf of plaintiff.

21. (*1*) No suit shall be maintained, against any person claiming title under a purchase certified by the Certificate-officer in such manner as may be prescribed, on the ground that the purchase was made on behalf of the plaintiff or on behalf of someone through whom the plaintiff claims.

(*2*) Nothing in this section shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a

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[1] Printed in Vol. I of this Code.

(*Part III.—Execution of Certificates.—Secs. 22, 23*)

third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner.

Setting aside sale

Application to set aside sale of immovable property on deposit

22. (*1*) Where immovable property has been sold in execution of a certificate, the certificate-debtor, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Certificate-officer to set aside the sale, on his depositing—

(*a*) for payment to the certificate-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, with interest thereon at the rate of twelve and a half *per centum per annum*, calculated from the date of the certificate to the date when the deposit is made,

(*b*) for payment to the purchaser, as penalty a sum equal to five *per cent* of the purchase-money, but not less than one rupee, and

(*c*) for payment to the Collector (where the certificate is for a public demand payable to the Collector), such outstanding charges due to the Government under any law for the time being in force as the Collector certifies to be payable by the certificate-debtor

(*2*) Where a person makes an application under section 23 for setting aside the sale of his immovable property he shall not, unless he withdraws that application, be entitled to make or prosecute an application under this section

Application to set aside sale of immovable property on ground of non service of notice or irregularity

23. (*1*) Where immovable property has been sold in execution of a certificate, the certificate-holder, the certificate-debtor, or any person whose interests are affected by the sale, may, at any time within sixty days from the date of the sale, apply to the Certificate-officer to set aside the sale on the ground that notice was not served under section 7 or on the gr[illegible] certificate proceedings or [illegible]

(*a*) no sale shall be set aside on any such ground unless the Certificate-officer is satisfied that the applicant has sustained substantial injury by reason of the nonservice or irregularity, and

(*b*) an application made by a certificate-debtor under this section shall be disallowed unless the applicant

either deposits the amount recoverable from him in execution of the certificate or satisfies the Certificate-officer that he is not liable to pay such amount.

(2) Notwithstanding anything contained in sub-section (1), the Certificate-officer may entertain an application made after the expiry of sixty days from the date of the sale if he is satisfied that there are reasonable grounds for so doing.

Application to set aside sale on ground that certificate-debtor had no saleable interest or that property did not exist.

24. The purchaser at any sale of immovable property in execution of a certificate may, at any time within sixty days from the date of the sale, apply to the Certificate-officer to set aside the sale on the ground that the certificate-debtor had no saleable interest in the property sold, or that the property did not exist at the time of the sale.

Sale when to become absolute or be set aside.

25. (1) Where no application is made under section 22, section 23 or section 24, or where such an application is made and disallowed, the Certificate-officer shall make an order confirming the sale, and thereupon the sale shall become absolute.

(2) Where such an application is made and allowed, and where, in the case of an application under section 22, the deposit required by that section is made within thirty days from the date of the sale, the Certificate-officer shall make an order setting aside the sale:

Provided that no order shall be made unless notice of the application has been given to all persons affected thereby.

Disposal of proceeds of execution.

Disposal of proceeds of execution.

26. (1) Whenever assets are realized, by sale or otherwise in execution of a certificate, they shall be disposed of in the following manner:—

(a) there shall first be paid to the certificate-holder the costs incurred by him;

(b) there shall, in the next place, be paid to the certificate-holder the amount due to him under the certificate in execution of which the assets were realized;

(c) if there remains a balance after these sums have been paid, there shall be paid to the certificate-holder therefrom any other amount recoverable under the procedure provided by this Act which may be due to him upon the date upon which the assets were realized; and

(d) the balance (if any) remaining after the payment of the amount (if any) referred to in clause (c) shall be paid to the certificate-debtor.

(2) If the certificate-debtor disputes any claim made by the certificate-holder to receive any amount referred to in clause (*c*) the Certificate-officer shall determine the dispute

Resistance to purchaser after sale

27. (*1*) If the purchaser of any immovable property sold in execution of a certificate is resisted or obstructed by any person in obtaining possession of the property, he may apply to the Certificate-officer. Application by purchaser resisted or obstructed in obtaining possession of immovable property

(*2*) The Certificate-officer shall fix a day for investigating the matter, and shall summon the party against whom the application is made to appear and answer the same

28. (*1*) If the Certificate-officer is satisfied that the resistance or obstruction was occasioned without any just cause by the certificate-debtor or by some person on his behalf, he shall direct that the applicant be put into possession of the property, and, if the applicant is still resisted or obstructed in obtaining possession, the Certificate-officer may also, at the instance of the applicant, order the certificate-debtor or such other person to be detained in the civil prison for a term which may extend to thirty days Procedure on such application

(*2*) If the Certificate-officer is satisfied that the resistance or obstruction was occasioned by any person (other than the certificate debtor) claiming in good faith to be in possession of the property on his own account or on account of some person other than the certificate debtor the Certificate officer shall make an order dismissing the application

Arrest, Detention and Release

29. A certificate-debtor may be arrested in execution of a certificate at any hour and on any day, except as provided in section 17, and, when so arrested, shall as soon as practicable, be brought before the Certificate officer, and his detention may be in the civil prison of the district in which the Certificate officer ordering the detention exercises jurisdiction, or where such civil prison does not afford suitable accommodation in any other place which the Local Government may appoint for the detention of persons ordered by the Civil Courts of such district to be detained Power of arrest and detention

Provided that, if the certificate-debtor pays the amount entered in the warrant of arrest as due under the certificate, and the cost of the arrest to the officer arresting him such officer shall at once release him

30. (*1*) The Collector may order the release of a certificate-debtor who has been arrested in execution of a certificate, upon being satisfied that he has disclosed the whole of his property Release from arrest and re-arrest

and has placed it at the disposal of the Certificate officer and that he has not committed any act of bad faith.

(*2*) If the Certificate-officer has ground for believing the disclosure made by a certificate-debtor under sub-section (*1*) to have been untrue, he may order the re-arrest of the certificate-debtor in execution of the certificate, but the period of his detention in the civil prison shall not in the aggregate exceed that authorized by section 31, sub-section (*1*).

Detention in, and release from, prison.

31. (*1*) Every person detained in the civil prison in execution of a certificate may be so detained,—

(*a*) where the certificate is for a demand of an amount exceeding fifty rupees—for a period of six months, and

(*b*) in any other case—for a period of six weeks:

Provided that he shall be released from such detention—

(*i*) on the amount mentioned in the warrant for his detention being paid to the officer in charge of the civil prison, or

(*ii*) on the certificate being otherwise fully satisfied, or cancelled, or

(*iii*) on the request of the person (if any) on whose requisition the certificate was filed, or of the Collector, or

(*iv*) on the omission by the person (if any) on whose requisition the certificate was filed to pay the subsistence allowance fixed by the Certificate-officer:

Provided, also that he shall not be released from such [illegible] (ii) or clause (iii) without the order of [illegible]

[illegible] released from detention under this section shall not, merely by reason of his release, be discharged from his debt, but he shall not be liable to be re-arrested under the certificate in execution of which he was detained in the civil prison.

Release on ground of illness.

32. (*1*) At any time after a warrant for the arrest of a certificate-debtor has been issued, the Certificate-officer may cancel it on the ground of his serious illness.

(*2*) Where a certificate-debtor has been arrested, the Certificate-officer may release him if, in the opinion of the Certificate-officer, he is not in a fit state of health to be detained in the civil prison.

(*3*) Where a certificate-debtor has been committed to the civil prison, he may be released therefrom—

(*a*) by the Collector, on the ground of the existence of any infectious or contagious disease, or

(*Part III.—Execution of Certificates.—Part IV.—Reference to Civil Court.—Secs. 33–34.*)

(*b*) by the Certificate-officer, or the Collector, on the ground of his suffering from any serious illness.

(*4*) A certificate-debtor released under this section may be re-arrested, but the period of his detention in the civil prison shall not in the aggregate exceed that authorized by section 31, sub-section (*1*).

Prohibition of arrest or detention of women and persons under disability.

33. Notwithstanding anything in this Act, the Certificate-officer shall not order the arrest or detention in the civil prison of—

(*a*) a woman, or

(*b*) any person who, in his opinion, is a minor or of unsound mind.

PART IV

REFERENCE TO CIVIL COURT

Suit in Civil Court to have certificate cancelled or modified.

34. The certificate-debtor may, at any time within six months—

(*1*) from the service upon him of the notice required by section 7, or

(*2*) if he files in accordance with section 9 a petition denying liability—from the date of the determination of the petition, or

(*3*) if he appeals in accordance with section 51 from an order passed under section 10—from the date of the decision of such appeal,

bring a suit in a Civil Court to have the certificate cancelled or modified, and for any further consequential relief to which he may be entitled:

Provided that no such suit shall be entertained—

(*a*) in any case, if the certificate-debtor has omitted to file in accordance with section 9 a petition denying liability, or to state in his petition denying liability the ground upon which he claims to have the certificate cancelled or modified, and cannot satisfy the Court that there was good reason for the omission, or

(b) in the case of a certificate for a demand mentioned in Article 1 or Article 2 of Schedule 1 if the certificate debtor has not paid the amount due under the certificate to the Certificate officer—

(i) within thirty days from the service of the notice required by section 7 or

(ii) if he has filed in accordance with section 9 a petition denying liability—then within thirty days from the date of the determination of the petition or

(iii) if he has appealed in accordance with section 51—then within thirty days from the decision of the appeal

Provided also that no sale in execution of a certificate shall be set aside in such a suit unless the purchaser has been made a party to the suit and until a direction is made for the refund of the amount of the purchase money with such interest (if any) as the Court may allow

Grounds for cancellation or modification of certificate by Civil Court

35 (1) No certificate duly filed under this Act shall be cancelled by a Civil Court except on one of the following grounds namely —

(a) that the amount stated in the certificate was actually paid or discharged before the signing of the certificate

(b) that no part of the amount stated in the certificate was due by the certificate debtor to the certificate holder or

(c) that in the case of fines imposed or costs charges expenses damages duties or fees adjudged by a Collector or a public officer under any law or any rule having the force of law the proceedings of such Collector or public officer were not in substantial conformity with the provisions of such law or rule and that in consequence the certificate debtor suffered substantial injury from some error defect or irregularity in such proceedings

(2) No certificate duly filed under this Act shall be modified by a Civil Court except on one of the following grounds namely —

(i) that a portion of the alleged debt was not due or

(ii) that the certificate debtor has not received credit for any portion which he has paid

(3) Nothing contained in this section shall interfere with the ordinary original jurisdiction of the High Court at Fort William in Bengal or with the jurisdiction of the Calcutta Court of Small Causes

(Part IV.—Reference to Civil Court.—Part V.—Rules—Secs. 36-39)

36. Notwithstanding anything hereinbefore contained, a sale of immovable property in execution of a certificate shall not be held to be void on the ground that the notice required by section 7 has not been served, but a suit may be brought in a Civil Court to recover possession of such property or to set aside such sale on the ground that such notice has not been served, and that the plaintiff has sustained substantial injury by reason of the irregularity. Suit to recover possession of, or to set aside sale of, immovable property where notice of certificate not served.

Provided that no such suit shall be entertained—

(*a*) if instituted more than one year from the date on which possession of the property was delivered to the purchaser, or

(*b*) if the certificate-debtor has made appearance in the certificate proceeding, or has applied to the Certificate-officer under section 22 or section 23 to set aside the sale.

37. Except as otherwise expressly provided in this Act, [illegible] between the certificate-holder and the [illegible] representatives, relating to the mak- [illegible] certificate duly filed [illegible] tion or setting aside [illegible] in execution of such certificate, shall be determined, not by suit, but by order of the Certificate-officer before whom such question arises, or of such other Certificate-officer as he may determine. General bar to jurisdiction of Civil Courts save where fraud alleged.

Provided that a suit may be brought in a Civil Court in respect of any such question upon the ground of fraud.

PART V

RULES

38. The rules in Schedule II[1] shall have effect as if enacted in the body of this Act until altered or annulled in accordance with the provisions of this part. Effect of rules in Schedule II.

39. (*1*) The Board of Revenue may, after previous publication and with the previous sanction of the Local Government, make rules regulating the procedure to be followed by persons making requisitions under section 5 and by Collectors and Certificate-officers acting under this Act, and may, by such rules, alter, add to or annul any of the rules in Schedule II[1]. Power of Board of Revenue to make rules as to procedure.

(*2*) Such rules shall not be inconsistent with the provisions in the body of this Act, but subject thereto, may in particular

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[1] Schedule II has been revised by Board of Revenue notification No. [illegible] C. P. dated the [illegible] December 1914, published in the Calcutta Gazette of the 23rd idem, Pt. I, p. [illegible]. It is printed *post*, p. 811.

and without prejudice to the generality of the power conferred by sub-section (*1*), provide for all or any of the following matters, namely:—

(*a*) the signature and verification of requisitions made under section 5;

(*b*) the Certificate-officers to whom such requisitions should be addressed;

(*c*) the cases in which such requisitions shall not be chargeable with a fee;

(*d*) the service of notices issued under section 7, the service of other notices or processes issued under this Act, and the manner in which service may be proved;

(*e*) the signing and verification of petitions, under section 9, denying liability;

(*f*) the transfer of such petitions to other officers for disposal;

(*g*) the scale of charges to be recovered under section 16, clause (*c*);

(*h*) the maintenance and custody, while under attachment, of live-stock and other movable property, the fees to be charged for such maintenance and custody, the sale of such live-stock and property, and the disposal of the proceeds of such sale;

(*i*) the registers, books and accounts to be kept by Certificate-officers, and the inspection thereof by the public;

(*j*) the fee to be charged for the inspection of the register of certificates maintained under rule 59[1] in Schedule II;

(*k*) the recovery of expenditure on the certificate establishment by the levy of costs under section 16, clause (*b*), and section 45;

(*l*) the recovery of poundage fees;

(*m*) the forms to be used under this Act.

Publication and effect of rules made under section 39.

40. (*1*) Rules made and sanctioned under section 39 shall be published in the Calcutta Gazette, and shall, from the date of publication or from such other date as may be specified, have the same force and effect as if they had been contained in Schedule II.

(*2*) All references in this Act to the said Schedule II shall be construed as referring to that Schedule as for the time being amended by such rules.

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[1] This rule should now be construed as referring to rule 9 of the revised Schedule II printed *post*, p. 811—*see* s. 40 (2) *post*.

PART VI

SUPPLEMENTAL PROVISIONS.

41. Where the Certificate-officer is satisfied that the certificate-debtor is a minor or of unsound mind, he shall, in any proceeding under this Act, permit him to be represented by any suitable person

Persons under disability

42. No certificate shall cease to be in force by reason of—

Continuance of certificates

(*a*) the property to which the demand relates ceasing to be under the charge or management of the Court of Wards or the Revenue-authorities, or

(*b*) the death of the certificate-holder

43. Where a certificate-debtor dies before the certificate has been fully satisfied, the Certificate-officer may, after serving upon the legal representative of the deceased a notice in the prescribed form, proceed to execute the certificate against such legal representative, and the provisions of this Act shall apply as if such legal representative were the certificate debtor and as if such notice were a notice under section 7

Procedure on death of certificate debtor

Provided that where the certificate is executed against such legal representative, he shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of and, for the purpose of ascertaining such liability the Certificate-officer executing the certificate may of his own motion or on the application of the certificate-holder compel such legal representative to produce such accounts as the Certificate-officer thinks fit

44. (*1*) The Certificate-officer shall cancel any certificate at the request of the certificate-holder

Cancellation of certificates

(*2*) The Certificate officer may cancel any certificate filed under section 6 if the certificate holder is not reasonably diligent

45. Subject to such limitation as may be prescribed, the award of and costs of and incidental to any proceeding under this Act shall be in the discretion of the officer presiding and he shall have full power to direct by whom and to what extent such costs shall be paid

Costs

46. If the Certificate officer is satisfied that any requisition under section 5 was made without reasonable cause, he may award to the certificate-debtor such compensation as the Certificate officer thinks fit,

Compensation

and the amount so awarded shall be recoverable from the certificate-holder under the procedure provided by this Act for recovery of costs

47. (*1*) No person executing any warrant of arrest issued under this Act, or any process issued under this Act directing

Entry into dwelling house

or authorizing the attachment of movable property, shall enter any dwelling-house after sunset or before sunrise

(2) No outer door of a dwelling-house shall be broken open unless the dwelling-house or a portion thereof is in the occupancy of the certificate-debtor and he or any other occupant of the house refuses or in any way prevents access thereto, but, when the person executing any such warrant or other process has duly gained access to any dwelling-house, he may break open the door of any room and enter, if he has reason to believe that entering into the room is necessary in order to enable him to execute the process

(3) Where a room in a dwelling-house is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the person executing the process shall give notice to her that she is at liberty to withdraw, and after allowing a reasonable time for her to withdraw and giving her reasonable facility for withdrawing, he may enter such room for the purpose of executing the process, and, if the process be for the attachment of property, he may at the same time use every precaution, consistent with this section, to prevent its clandestine removal

Application of Act XVIII of 1850

48. Every Collector, Certificate-officer, Assistant Collector or Deputy Collector acting under this Act, and every Government officer making a requisition under section 5, shall, in the discharge of his functions under this Act, be deemed to be acting judicially within the meaning of the Judicial Officers' Protection Act, 1850[1] 18

Officers to have powers of Civil Court for certain purposes

49. Every Collector, Certificate officer, Assistant Collector or Deputy Collector acting under this Act, shall have the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the production of documents

Control over officers

50. All Certificate-officers (not being Collectors), Assistant Collectors and Deputy Collectors shall, in the performance of their duties under this Act, be subject to the general supervision and control of the Collector

Appeal

51. (*1*) An appeal from any original order made under this Act shall lie—

(*a*) if the order was made by an Assistant Collector or a Deputy Collector, or by a Certificate officer not being the Collector—to the Collector, or

(*b*) if the order was made by the Collector,—to the Commissioner

Provided that no appeal shall lie from any order made under section 22

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[1] Printed in the General Acts 1834-67, Ed 1909, p 69

of 1913.]

(*Part VI.—Supplemental Provisions.—Secs. 52-57.*)

(2) Every such appeal must be presented, in case (*a*), within fifteen days, or, in case (*b*), within thirty days, from the date of the order.

(3) The Collector may, by order, with the previous sanction of the Commissioner, authorize—

(*i*) any Sub-divisional Officer, or

(*ii*) any officer appointed under clause (3) of section 3 to perform the functions of a Certificate-officer,

to exercise the appellate powers of the Collector under sub-section (1)

(4) When any officer has been so authorized, the Collector may transfer to him for hearing any appeal referred to in clause (*a*) of sub-section (1), unless the order appealed against was made by such officer

(5) Pending the decision of any appeal, execution may be stayed if the appellate authority so directs, but not otherwise

52. No appeal shall lie from any order of a Collector, or an officer authorized under section 51, sub-section (3), when passed on appeal. Bar to second appeals

53. The Collector may revise any order passed by a Certificate-officer, Assistant Collector or Deputy Collector under this Act, Revision

the Commissioner may revise any order passed by a Collector under this Act;

and the Board of Revenue may revise any order passed by a Commissioner under this Act.

54. Any order passed under this Act may, after notice to all persons interested, be reviewed by the officer who made the order, or by his successor in office, on account of mistake or error either in the making of the certificate or in the course of any proceeding under this Act Review

55. The powers given by this Act shall be deemed to be in addition to, and not in derogation from, any powers conferred by any other Act now in force for the recovery of any due, debt or demand to which the provisions of this Act are applicable, and, except where expressly so provided, no legal remedy shall be affected by this Act. Saving of other Acts

909 **56.** (1) Sections 6 to 9 of the Indian Limitation Act, 1908[1], shall not apply to suits, appeals or applications under this Act Application of the Indian Limitation Act 1908

(2) Except as declared in sub-section (1), the provisions of
903 the Indian Limitation Act, 1908[1], shall apply to all proceedings under this Act as if a certificate filed hereunder were a decree of a Civil Court

57. A Certificate-officer shall be deemed to be a Court and any proceeding before him shall be deemed to be a civil proceeding within the meaning of section 14 of the Indian
908 Limitation Act, 1908[1]. Certificate officer deemed to be a Court

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[1] Printed in the General Acts, 1904-09, Ed. 1909, p. 476

Penalties

58. Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein, from being taken in execution of a certificate, shall be deemed to have committed an offence punishable under section 206[1] of the Indian Penal Code

Signature of documents by ministerial officers

59. *(1)* Any Certificate-officer may, by written order, authorize any ministerial officer to sign on behalf of the Certificate-officer, any copy, issued by the Certificate-officer under this Act, of any document referred to therein

(2) The Local Government may, by notification[2] in the Calcutta Gazette, empower Certificate-officers to authorize ministerial officers, by written order, to sign on behalf of Certificate-officers any classes of original notices, summonses or proclamations issued by Certificate-officers under this Act which are specified in such notification

Amendment of Chapter XIIIA of the Bengal Tenancy Act 1885

60. For Chapter XIIIA of the Bengal Tenancy Act, 1885[3] the following shall be substituted, namely —

"CHAPTER XIIIA

"SUMMARY PROCEDURE FOR THE RECOVERY OF RENTS UNDER THE BENGAL PUBLIC DEMANDS RECOVERY ACT, 1913

Recovery of arrears of rent under the certificate procedure in certain areas

"158A *(1)* Any landlord (other than the Government) whose land is situate in an area for which a record-of-rights has been prepared and finally published, and in which such record is maintained,

may apply to the Local Government through the Collector of the district in which his land is situate, for the application of the procedure prescribed by the Bengal Public Demands Recovery Act, 1913 to the recovery of the arrears of rent which he alleges are, or may accrue, due to him for lands in such area

(2) The Local Government may reject any such application, or may allow it subject to such terms and conditions as it may see fit to impose, and may at any time add to or vary any terms or conditions so imposed, or withdraw its allowance of the application, without, in any of these cases, assigning any reason for its action

(3) When any such application has been allowed, the landlord may make a requisition in writing, in the form prescribed,

to such Revenue-officer as the Local Government may, appoint, for the purpose of this section, to perform the functions

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[3] L R, dated the 26th
2389

(*Part VI.—Supplemental Provisions.—Sec. 60.*)

of a Certificate-officer under the Bengal Public Demands Recovery Act, 1913,

for the recovery of any arrears of rent which he alleges are due to him from any tenant.

(*4*) Every such requisition shall be signed and verified by the landlord making it, in the manner prescribed by rule 1 in Schedule II to the said Act, as amended for the time being by rules made under section 39 thereof, and shall be chargeable with a fee of the amount which would be payable under the Court-fees Act, 1870[1], in respect of a plaint for the recovery of a sum of money equal to that stated in the requisition as being due.

(*5*) On receipt of any such requisition, the said Revenue-officer may, in accordance with such rules as the Local Government may prescribe in this behalf and if he is satisfied that the arrear is due, sign a certificate, in the prescribed form, stating that the arrear is due, and shall include in the certificate the fee paid under sub-section (*4*), and shall cause the certificate to be filed in his office:

Provided that—

(*a*) no certificate shall be signed for the recovery of arrears of rent of a tenancy regarding which a suit has been instituted in a Civil Court for the alteration of the rent payable by the tenant or the determination of his status as a tenant, in respect of the period during which it is alleged in the requisition made under sub-section (*3*) that the arrears of rent sought to be recovered have accrued; and

(*b*) if, after the signing of a certificate, it is found that such a suit was instituted in a Civil Court before the certificate was signed, such certificate shall be cancelled.

(*6*) The person in whose favour any certificate is signed under sub-section (*5*) shall be deemed to be the certificate-holder for the amount mentioned in the certificate and the person against whom the certificate is signed shall be deemed to be the certificate-debtor for the said amount; and all proceedings taken by the Certificate-officer for the recovery of such amount shall be taken at the instance of the first-mentioned person, and at his cost and responsibility and not otherwise.

(*7*) The Bengal Public Demands Recovery Act, 1913, with such restrictions and modifications (if any) as may be prescribed, shall apply to the execution and to all proceedings arising out of the execution of certificates filed under sub-section (*5*).

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[1] Printed in the General Acts [illegible] p. [illegible]

(8) No landlord shall during the pendency of any proceedings under this section institute a suit in a Civil Court for the recovery of any arrears of rent in respect of which he has made a requisition under sub section (3)

and subject to the provisions of section 34 of the Bengal Public Demands Recovery Act 1913 no tenant shall after the signing of any certificate against him under sub section (5) of this section institute a suit in or apply to a Civil Court for the alteration of the rent payable by him or the determination of his status as a tenant in respect of the period during which the arrears of rent for which such certificate was signed have accrued

(9) The word landlord in this section includes an entire body of landlords and also one or more co sharer landlords who collects or collect his or their shares of the rent separately and where a Revenue officer signs a certificate on the requisition of one or more such co sharer landlords he shall at the same time issue to each of the remaining co share landlords a copy of such certificate

Amendment of section 158 B (*1*) of the Bengal Tenancy Act 1885

61. For sub section (*1*) of section 158 B of the Bengal Tenancy Act 1885[1] the following shall be substituted namely — 8 of

Passing of tenure or holding sold in execution of decree or certificate

(*1*) Where a tenure or holding is sold in execution of—

(*a*) a decree for arrears of rent due in respect thereof or

(*b*) a decree for damages under section 186 A or

(*c*) a certificate for arrears of rent signed under the Bengal Public Demands Recovery Act 1913

the tenure or holding shall subject to the provisions of section 22 pass to the purchaser

if such decree was obtained by—

(*i*) a sole landlord or

(*ii*) the entire body of landlords or

(*iii*) one or more co sharer landlords who has or have sued for the rent due to all the co sharers in respect of the entire tenure or holding and made all the remaining co sharers parties defendant to the suit or

if such certificate was signed on the requisition of or in favour of a sole landlord or the entire body of landlords

[1] Printed in Vol I of this Code

(*Part VI—Supplemental Provisions—Secs 62-64—Schedule I.—Public Demands, No. 1*)

62. (*1*) In sub-section (*1*) of section 167 of the Bengal Tenancy Act, 1885[1], after the words "the foregoing sections" the words "or under the Bengal Public Demands Recovery Act, 1913," shall be inserted. Amendment of section 167 of the Bengal Tenancy Act, 1885

(*2*) In sub-section (*4*) of the said section,—

(*a*) after the words "a decree" the words "or a certificate signed under the Bengal Public Demands Recovery Act, 1913," shall be inserted, and

(*b*) after the words "this Chapter" the words "or that Act" shall be inserted

63. In sub-section (*1*) of section 171 of the Bengal Tenancy Act, 1885[1], after the words "under this Chapter" the following shall be inserted, namely — Amendment of section 171 (*1*) of the Bengal Tenancy Act 1885

"or in execution of a certificate for arrears of rent due in respect thereof, signed under the Bengal Public Demands Recovery Act, 1913"

64. In section 172 of the Bengal Tenancy Act, 1885[1], for the words "when a tenure or holding is advertised for sale under this Chapter in execution of a decree against a superior tenant defaulting" the following shall be substituted, namely — Amendment of section 172 of the Bengal Tenancy Act, 1885

"When a tenure or holding is advertised for sale—

(*a*) under this Chapter in execution of a decree against a a superior tenant defaulting, or

(*b*) in execution of a certificate, signed under the Bengal Public Demands Recovery Act, 1913, for arrears of rent due in respect of the tenure or holding from a superior tenant defaulting"

SCHEDULE I

PUBLIC DEMANDS

[*See sections 3 (6) and 34 (b)*]

1. Any arrear of revenue which remains due in the following circumstances, namely —

359 when, under the provisions of the Bengal Land-revenue
ct 7 Sales Act, 1859[1], or the Bengal Land-revenue Sales Act 1868[2], or any other law for the time being in force, an estate or tenure, or any share of an estate or tenure has been sold for the recovery of arrears of revenue due thereupon, and, after deducting the expenses of such sale, the balance of the sale-proceeds remaining is insufficient to liquidate the arrears of

[1] Printed in Vol I of this Code
[2] Printed in Vol II of this Code

(Schedule I—Public Demands, Nos 2-11)

revenue in discharge of which such sale-proceeds may, under the said provisions, be applied

2. Any arrear of revenue which is due from a farmer on account of an estate held by him in farm, and is not paid on the latest day of payment fixed[1] under section 3 of the said Bengal Land-revenue Sales Act, 1859[2] 11 of 1859

3. Any money which is declared by any law[3] for the time being in force to be recoverable or realizable as an arrear of revenue or land-revenue, or by the process authorized for the recovery of arrears of revenue or of the public revenue or of Government revenue

4. Any money which is declared by any enactment for the time being in force—

(i) to be a demand or a public demand, or

(ii) to be recoverable as arrears of a demand or public demand, or as a demand or public demand, or

(iii) to be recoverable under the Bengal Land-revenue Sales Act, 1868[4] Ben Act 7 of 1868

5. Any money due from the sureties of a farmer in respect of the revenue of the estate farmed by him

6. Any money awarded as fees or costs by a Revenue-authority under any law or any rule having the force of law

7. Any demand payable to the Collector by a person holding any interest in land, pasturage, forest-rights, fisheries or the like, whether such interest is or is not transferable when such demand is a condition of the use and enjoyment of such land, pasturage, forest-rights, fisheries or other thing

8. In the case of property which, under the provisions of any law for the time being in force, is under the charge of, or is managed by the Court of Wards or the Revenue-authorities on behalf of a private individual—any arrear of rent, or of any demand which is recoverable as rent, whether such arrear became due before or after the management devolved upon such Court or such Authorities

9. Any money payable to a Government Officer or any local authority, in respect of which the person liable to pay the same has agreed, by a written instrument, duly registered, that it shall be recoverable as a public demand

10. Any stamp duty payable by a proprietor in respect of a paper of partition prepared under the Estates Partition Act, 1897[5] Ben Act 5 of 1897

11. In the case of a person to whom the collection of tolls has been farmed under section 8 of the Canals Act, 1864[4], or of Ben Act 5 of 1864

[1] For a reference to a notification under s 3 of Act 11 of 1859 fixing latest dates for the payment of arrears of revenue see the Bengal Local Statutory Rules and Orders 1910 Pt IV and for further notifications see Calcutta Gazette 1912 Pt I p 743 and see ibid 1914 Pt I pp 157 2 ...

[2] Printed in Vol I of this Code

[3] The enactments are included in the list in the Appendix, post p 847

[4] Printed in Vol II of this Code

[5] Printed ante p 115

the sureties of such person—any money due in respect of such farm.

12. Any money awarded as compensation under section 2 of the Bengal Land-revenue Sales Act 1868[1]. *[margin: …t 7 of]*

13. Any money due from a purchaser at a sale held in execution of a certificate under this Act, whether the sale is subsisting or not.

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[2] SCHEDULE II

RULES

(*See section 38.*)

SIGNATURE AND VERIFICATION OF REQUISITIONS FOR CERTIFICATES

Signature and verification of requisition for certificate.

1. (*1*) Every requisition made under section 5 shall be signed and verified at the foot by the person making it.

(*2*) The verification shall state that the person signing the requisition has been satisfied by inquiry that the amount stated in the requisition is actually due.

(*3*) The verification shall be signed by the person making it, and shall state the date on which it is signed.

SERVICE OF NOTICES

Mode of service.

2. Service of a notice issued under section 7, or under any other provision of this Act, shall be made by delivering or tendering a copy thereof, signed by the Certificate-officer or such ministerial officer as he authorizes in this behalf and sealed with the seal of the Certificate-officer.

Service on certificate-debtor or his agent.

3. Wherever it is practicable service shall be made on the certificate-debtor in person unless he has an agent empowered to accept service, in which case service on such agent shall be sufficient.

Service on adult male member of certificate-debtor's family.

4. Where the certificate-debtor cannot be found and has no agent empowered to accept service of the notice on his behalf, service may be made on any adult male member of the family of the certificate-debtor who is residing with him.

Explanation.—A servant is not a member of the family within the meaning of this rule.

Person served to sign acknowledgment.

5. Where the serving officer delivers or tenders a copy of the notice to the certificate-debtor personally or to an agent or other person on his behalf, he shall require the signature

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[1] Printed in Vol. II of this Code.

[2] This Schedule II has been substituted for the original Schedule II by Board of Revenue Notification No. 3415 [illegible], dated the 21st December, 1914, published in the Calcutta Gazette, dated the [illegible] (See section 38 ante.)

of the person to whom the copy is so delivered or tendered to an acknowledgment of service endorsed on the original notice

Procedure where certificate-debtor refuses to accept service or cannot be found

6. Where the certificate-debtor or his agent, or such other person as aforesaid, refuses to sign the acknowledgment, or where the serving officer, after using all due and reasonable diligence, cannot find the certificate-debtor, and there is no agent empowered to accept service of the notice on his behalf, nor any other person on whom service can be made, the serving officer shall—

(*a*) affix a copy of the notice on the outer door or some other conspicuous part of the house in which the certificate-debtor ordinarily resides or carries on business or personally works for gain, or

(*b*) if there be land affected by the notice, affix a copy of the notice on some conspicuous place in the office of the Certificate-officer and also on some conspicuous part of the land,

and shall then return the original to the Certificate-officer by whom it was issued, with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, and the name and address of the person (if any) by whom the house or land was identified and in whose presence the copy was affixed

Endorsement of time and manner of service

7. The serving officer shall, in all cases in which the notice has been served under rule 5, endorse or annex, or cause to be endorsed or annexed, on or to the original notice, a return stating the time when and the manner in which the notice was served, and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the notice

Examination of serving officer

8. Where a notice is returned under rule 6, the Certificate-officer shall, if the return under that rule has not be verified by the affidav[illegible]t has been so verified, [illegible], or cause him to be so [illegible]or, subject to any general order of the Collector, by an Assistant Collector, Deputy Collector or Sub-Deputy Collector, touching his proceedings, and may make such further inquiry in the matter as he thinks fit and shall either declare that the notice has been duly served or order such service as he thinks fit

Service by post

9. Notwithstanding anything hereinbefore contained, the notice may if the Certificate-officer so directs, be served by post

PETITIONS UNDER SECTION 9, DENYING LIABILITY

Signature and verification of petition denying liability

10 (*1*) Every petition filed under section 9 denying liability, shall be signed and verified at the foot by the certificate-debtor or by some other person on his behalf who is

(*Schedule II—Rules—Rules 11-14*)

proved to the satisfaction of the Certificate-officer to be acquainted with the facts of the case

(2) The verification shall be signed by the person making it, and shall state the date on which it is signed

Transfer of such petitions

11. (*1*) The Certificate-officer may, subject to any general or special order of the Collector, transfer to any Assistant Collector or Deputy Collector subordinate to the Collector any petition filed under section 9, and such Assistant Collector or Deputy Collector shall hear and determine such petition accordingly

Provided that the Collector may re-transfer any petition so transferred, and order that it be heard and determined by the Certificate-officer

(2) The provisions of section 10 shall be applicable to any Assistant Collector or Deputy Collector to whom any such petition has been transferred under sub-rule (*1*)

EXECUTION OF CERTIFICATES

Execution in another district

12. Where a copy of a certificate is sent for execution to the Collector of another district under section 12, sub section (*1*), the certificate may be executed by him or may be transferred by him to any Certificate officer in his district

ATTACHMENT OF MOVABLE PROPERTY, ETC

Application for attachment of movable property in the possession of the certificate debtor

13. At the time of making an application for the attachment of movable property in the possession of the certificate-debtor, the certificate-holder shall declare whether the property is above or below Rs 20 in value If the property is declared to be above Rs 20 in value, the certificate-holder shall pay the costs of issuing the proclamation of sale If, however, the value of the property, having been declared to be Rs 20 or under, should be found, as determined by rule 14, to exceed Rs 20, the certificate-holder shall pay the costs of issuing the proclamation of sale immediately on receipt of notice of attachment

Procedure for the attachment of movable property when its value is up to Rs 20 or above

14. When the attaching officer believes that the property attached does not exceed Rs 20 in value, he shall inform the debtor or, in his absence, any present adult member of his family, that it will be sold by public auction at once without the issue of any proclamation In case the certificate-holder or the certificate-debtor, or any person on his behalf, objects to this, the attaching officer shall convoke a *panchayat* of not less than three respectable adult male inhabitants of the neighbourhood, of whom ordinarily the headman of the village should be one, and shall require them to assess the value of the property If they determine that it exceeds, Rs 20 in value he shall deal with it according to **the rules** for the sale of movable

(Schedule II—Rules—Rules 15-17.)

property exceeding Rs. 20 in value otherwise he shall forthwith proceed to sell it by auction, after giving such reasonable notice as the circumstances of the case admit of to intending purchasers.

Attachment of movable property (other than agricultural produce) in possession of certificate debtor

15. Where the property to be attached is movable property (other than agricultural produce) in the possession of the certificate-debtor, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof

Provided that, when the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the attaching officer may sell it at once

Attachment of agricultural produce

16. Where the property to be attached is agricultural produce, the attachment shall be made by affixing a copy of the warrant of attachment—

(*a*) where such produce is growing crop—on the land on which such crop has grown, or

(*b*) where such produce has been cut or gathered—on the threshing floor or place for treading out grain or the like, or fodder stack, on or in which it is deposited,

and another copy on the outer door or on some other conspicuous part of the house in which the certificate-debtor ordinarily resides, or with the leave of the Certificate-officer, on the outer door or on some other conspicuous part of the house in which he carries on business or personally works for gain or in which he is known to have last resided or carried on business or personally worked for gain ,

and the produce shall thereupon be deemed to have passed into the possession of the Certificate-officer

Provisions as to agricultural produce under attachment

17. (*1*) Where agricultural produce is attached, the Certificate-officer, shall make such arrangements for the custody thereof as he may deem sufficient, and, when the produce is a growing crop, shall have regard to the time at which it is likely to be fit to be cut or gathered

(*2*) Subject to such conditions as may be imposed by the Certificate-officer in this behalf, either in the order of attachment or in any subsequent order, the certificate-debtor may tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it, and, if the certificate-debtor fails to do all or any of such acts the certificate holder may, with the permission of the Certificate-officer and subject to the like conditions, do all or any of them either by himself or by any person appointed by him in this behalf, and the costs incurred by the certificate-holder shall be recoverable from the certificate-debtor as if they were included in the certificate.

(*3*) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require re-attachment merely because it has been severed from the soil.

(*4*) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Certificate-officer may suspend the execution of the order for such time as he thinks fit, and may, in his discretion, make a further order prohibiting the removal of the crop pending the execution of the order of attachment.

(*5*) A growing crop which from its nature does not admit of being stored shall not be attached under this rule at any time less than twenty days before the time at which it is likely to be fit to be cut or gathered.

Attachment of debt, share, and other movable property not in possession of certificate-debtor.

18. (*1*) In the case of—

(*a*) a debt not secured by a negotiable instrument,

(*b*) a share in the capital of a Corporation, or

(*c*) other movable property not in the possession of the certificate-debtor, except property deposited in, or in the custody of, any Court,

the attachment shall be made by a written order prohibiting,—

(*i*) in the case of the debt—the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Certificate-officer,

(*ii*) in the case of the share—the person in whose name the share may be standing from transferring the same or receiving any dividend thereon,

(*iii*) in the case of the other movable property (except as aforesaid)—the person in possession of the same from giving it over to the certificate-debtor.

(*2*) A copy of such order shall be affixed on some conspicuous part of the office of the Certificate-officer, and another copy shall be sent, in the case of the debt, to the debtor, in the case of the share, to the proper officer of the Corporation, and in the case of the other movable property (except as aforesaid), to the person in possession of the same.

(3) A debtor prohibited under clause (*i*) of sub-rule (*1*) may pay the amount of his debt to the Certificate-officer, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

Attachment of share in movables.

19. Where the property to be attached consists of the share or interest of the certificate-debtor in movable property belonging to him and another as co-owners, the attachment shall be made by a notice to the certificate-debtor prohibiting

him from transferring the share or interest or charging it in any way.

Attachment of salary or allowances of public officer or servant of Railway Company or Local Authority

20. (*1*) Where the property to be attached is the salary or allowances of a public officer or of a servant of a Railway Company or Local Authority, the Certificate-officer, whether the certificate-debtor or the disbursing officer is or is not within the local limits of the Certificate-officer's jurisdiction, may order that the amount shall be withheld from such salary or allowances, either in one payment or by monthly instalments as the Certificate-officer may direct: and, upon notice of the order to such officer as the Local Government may, by notification in the Calcutta Gazette, appoint in this behalf, the officer or other person whose duty it is to disburse such salary or allowances shall withhold and remit to the Certificate-officer the amount due under the order, or the monthly instalments, as the case may be.

(*2*) Where the attachable proportion of such salary or allowances is already being withheld and remitted to a Certificate-officer or to a Civil Court in pursuance of a previous and unsatisfied order of attachment, the officer appointed by the Local Government in this behalf shall forthwith return the subsequent order to the Certificate-officer issuing it, with a full statement of all the particulars of the existing attachment.

(*3*) Every order made under this rule, unless it is returned in accordance with the provisions of sub-rule (*2*), shall, without further notice or other process, bind the Government or the Railway Company or Local Authority, as the case may be, and the Government or the Railway Company or Local Authority, as the case may be, shall be liable for any sum paid in contravention of this rule.

Attachment of negotiable instruments

21. Where the property is a negotiable instrument not deposited in a Court nor in the custody of a public officer, the attachment shall be made by actual seizure, and the instrument shall be brought before the Certificate-officer and held subject to his orders.

Attachment of property in custody of Court or public officer

22. Where the property to be attached is in the custody of any Court or public officer, the attachment shall be made by a *notice to such Court or officer, requesting that such* property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Certificate-officer by whom the notice is issued:

Provided that, where such property is in the custody of a Court any question of title or priority arising between the certificate-holder and any other person, not being the certificate-debtor, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such Court.

Attachment of immovable property

23. Where the property is immovable, no attachment need be made before sale.

(*Schedule II.—Rules.—Rules 24-29.*)

24. Where—

Removal of attachment on satisfaction or cancellation of certificate

(*a*) the amount due, with costs and all charges and expenses resulting from the attachment of any property or incurred in order to a sale, are paid to the Certificate-officer, or

(*b*) the certificate is cancelled,

the attachment shall be demed to be withdrawn, and, in the case of immovable property, the withdrawal shall, if the certificate-debtor so desires, be proclaimed at his expense, and a copy of the proclamation shall be affixed in the manner prescribed by rule 17, sub-rule (*1*).

MAINTENANCE AND CUSTODY WHILE UNDER ATTACHMENT, OF LIVE-STOCK AND OTHER MOVABLE PROPERTY.

25. Under rule 15, the property seized will remain in the custody of the attaching officer or of one of his subordinates on his responsibility. (Custody of property under attachment)

26. If no suitable place can be found in the village for the safe custody of the attached property, the attaching officer shall remove the property to the Court at the certificate-holder's expense. In the event of the certificate-holder failing to provide the necessary funds, the attachment shall be withdrawn. (Removal of property to Court)

27. Whenever attached property is kept at the place where it is attached, the officer shall forthwith report the fact to the certificate-officer and with his report shall forward an accurate list of the property seized, so that the certificate-officer may thereon at once issue the proclamation of sale. (List of property under attachment)

28. If the debtor shall give his consent in writing to the sale of the property without awaiting the expiry of the prescribed term, the officer shall receive the same and forward it without delay to the Certificate-officer for orders. (Debtor's consent to the sale of the property under attachment)

29. When property is removed to the Court, it shall be kept by the *nazir* on his own sole responsibility in such place as may be approved by the Certificate-officer. If the property cannot, from its nature or bulk, be conveniently kept in the Court premises, or in the personal custody of the *nazir*, he may, subject to approval by the Certificate-officer, make such arrangements for its safe custody under his own supervision as may be most convenient and economical and the Certificate-officer may fix the remuneration to be allowed to the persons, not being officers of the Court, in whose custody the property is kept. (Custody of property under attachment, while in Court)

(*Schedule II—Rules—Rules 30-36*)

Claim of any person other than the certificate-holder to the property under attachment

30. When property remains at the place where it is attached in the custody of the attaching officer and any person other than the certificate-debtor shall claim the same or any part of it, the officer shall nevertheless, unless the certificate-holder desires to withdraw the attachment of the property so claimed, remain in possession and shall direct the claimant to prefer his claim to the Certificate-officer.

Withdrawal of attachment

31. If the certificate-holder shall withdraw an attachment, or if it be withdrawn under rule 26 or rule 33, the attaching officer shall inform the debtor, or in his absence an adult member of his family, that the property is at his disposal.

In the absence of any person to take charge of it, or in case the officer shall have had notice of claim by a person other than the certificate-debtor, the officer shall, if the property has been moved from the premises in which it was seized, replace it where it was found at the time of seizure.

Feeding and tending of live-stock under attachment

32. Whenever live-stock is kept at the place where it has been attached, the certificate-debtor shall be at liberty to undertake the due feeding and tending of it under the supervision of the attaching officer, but the latter shall, if required by the certificate-holder and on his paying for the same at a rate to be fixed by the Certificate-officer, engage the services of as many persons as may be necessary for the safe custody of it.

Cost for feeding live-stock and expenses attending its removal to Court

33. In the event of the certificate-debtor failing to feed attached live-stock, the officer shall call upon the certificate-holder either to pay for feeding it on the spot or for the expenses attending its removal to the Court. If the certificate-holder shall fail to provide for either, the officer shall report the matter without delay to the Certificate-officer, who may thereupon withdraw the attachment.

Responsibility of the nazir for safe custody and proper feeding

34. When attached live-stock is brought to Court, the *nazir* shall be responsible for the safe custody and proper feeding of it so long as the attachment continues.

Custody of live-stock in Government pound

35. If there be a Government pound in or near the place where the Court is held, the *nazir* shall be at liberty to place in it such attached live-stock as can be properly kept there, in which case the pound-keeper will be responsible for the property to the *nazir*, and shall receive the same rates for accommodation and maintenance thereof as are paid in respect of impounded cattle of the same description.

Responsibility of the nazir for the custody of live-stock

36. If there be no pound available, or if in the opinion of the Certificate-officer it be inconvenient to lodge the attached live-stock in the pound, the *nazir* may keep it in his own premises, or he may entrust it to any person selected by himself and approved by the Certificate-officer. The *nazir* will in all cases remain responsible for the custody of the property.

(*Schedule II.—Rules.—Rules 37, 38*)

37. The Certificate-officer shall, from time to time, fix the rates to be allowed for the custody and maintenance of the various descriptions of live-stock with reference to seasons and local circumstances. The Collector may make any alterations he deems fit in the rates so prescribed.

Rates to be allowed for the custody and maintenance of various descriptions of live stock

38. (*1*) Where process of attachment of movable property by actual seizure is issued, fees at the following rates shall be charged, and the officer deputed to attach such property shall be furnished with a certificate stating the period for which the fees in accordance with this rule have been paid.

Fees to be charged where process of attachment of movable property is by actual seizure

(*i*) When the amount under the certificate exceeds Rs. 1,000—

	Rs.	A.	P.
(*a*) for the seizure under the order of attachment	2	0	0
(*b*) for each man necessary to ensure safe custody of property so attached, when such man is actually in possession, *per diem*	0	6	0

(*ii*) When the amount under certificate is Rs. 1,000 or under but above Rs. 50—

	Rs.	A.	P.
(*a*) for the seizure under the order of attachment	1	0	0
(*b*) for each man necessary to ensure the safe custody of property so attached, when such man is actually in possession, *per diem*	0	4	0

(*iii*) When the amount under certificate is Rs. 50 or under—

(*a*) for the seizure under the order of attachment	0	8	0
(*b*) for each man necessary to ensure the safe custody of property so attached, when such man is actually in possession, *per diem*	0	4	0

(*2*) When process of attachment is issued in a number of cases relating to the same or neighbouring villages, the fee (*a*) referred to above must be paid in each case, and the daily fee (*b*) only for the men actually employed. The daily fee (*b*) is to be paid at the time of obtaining the process for so many days as the Certificate-officer shall order, not being ordinarily less than fifteen days, and the number of days required for the coming and going of the attaching officer; but where that officer is not to be left in possession, then the daily fee is to be paid only for the time to be occupied by the officer going, effecting the attachment and returning. When the inventory filed by the certificate-holder shows the property to be of such small value, that the expense of keeping it in custody may probably exceed the value, the Certificate-officer shall fix the daily fee with reference to the provision of rule 15.

Provided that, if it appears that for any reason the number of days fixed by the Certificate-officer under this rule, and in respect of which fees have been paid is likely to be exceeded and certificate-holder desires to maintain the attachment, the certificate-holder shall apply to the Certificate-officer to fix

such further number of days as may be necessary and the additional fees in respect thereof shall be paid in the manner provided in sub-rule (*3*). If such additional fees be not paid within the period originally fixed and in respect of which fees have been paid, the attachment shall cease on the expiry of that period.

(*3*) The fees prescribed by this rule shall be payable in advance at the time when the petition for service or execution is presented, and shall be paid by means of Court-fee stamps affixed to the petition in addition to the stamps necessary for its own validity.

Investigation of Claims and Objections.

Investigation by Certificate-officer.

39. (*1*) Where any claim is preferred to, or any objection is made to the attachment or sale of, any property in execution of a certificate, on the ground that such property is not liable to such attachment or sale, the Certificate-officer shall proceed to investigate the claim or objection:

Provided that no such investigation shall be made where the Certificate-officer considers that the claim or objection was designedly or unnecessarily delayed.

(*2*) Where the property to which the claim or objection applies has been advertised for sale, the Certificate-officer ordering the sale may postpone it pending the investigation of the claim or objection.

Evidence to be adduced.

40. The claimant or objector must adduce evidence to show that—

(*a*) (in the case of immovable property) at the date of the service of the notice under section 7, or

(*b*) (in the case of moveable property) at the date of the attachment,

he had some interest in, or was possessed of, the property attached.

Release of property from attachment or sale.

41. Where, upon the said investigation, the Certificate-officer is satisfied that, for the reason stated in the claim or objection, such property was not,—

(*a*) (in the case of immovable property) at the date of the service of the notice under section 7, or

(*b*) (in the case of movable property) at the date of the attachment,

in the possession of the certificate-debtor or of some person in trust for him or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the certificate-debtor at the said date, it was so in his possession, not on his own account or as his own property, but on account

(Schedule II.—Rules.—Rules 42-46.)

of or in trust for some other person, or partly on his own account and partly on account of some other person,

the Certificate-officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or sale

42. Where the Certificate-officer is satisfied that the property was, at the said date, in the possession of the certificate-debtor as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Certificate-officer shall disallow the claim — Disallowance of claim to property attached

43. Where a claim or an objection is preferred, the party against whom an order is made may institute a suit in a Civil Court to establish the right which he claims to the property in dispute, but, subject to the result of such suit (if any), the order shall be conclusive — Saving of *suits to establish* right to attached property

SALE GENERALLY

44. Any Certificate-officer executing a certificate may order that any property liable to sale, or such portion thereof as may seem necessary to satisfy the certificate, shall be sold — Power to order sale of attached property

45. Sales of property under the proviso to rule 15 and of movable property not exceeding Rs 20 in value, shall be held on the spot Such sales will necessarily be conducted by peons when they are the attaching officers Sales of movable property of greater value can, under rule 46, take place only after the issue of a proclamation but they may be held on the spot or at the *sadar* or sub-divisional head-quarters, as may seem convenient and conducive to the securing of good prices, provided that the place and time of sale are notified in the proclamation For such sales officers of higher rank than peons should always be deputed when the value of the property is estimated to exceed Rs 50, and proclamation should be issued When the value is between Rs 20 and Rs 50, the Collector or Certificate-officer may, by a special order, depute a peon, if he considers it desirable to do so — Sale of movable property falling under rule 15 or of value not exceeding Rs 20 or of greater value

46 *(1)* Where any immovable property, or any movable property exceeding twenty rupees in value, is ordered to be sold by public auction, the Certificate-officer shall cause a proclamation of the intended sale to be made in the language of the Courts of the district — Proclamation of sale by public auction

(2) Such proclamation shall be drawn up after notice to the certificate-debtor, and shall state the time and place of sale, and shall specify, as fairly and accurately as possible,—

(*a*) the property to be sold,

(*b*) (where the property to be sold is an interest in an estate or in part of an estate paying revenue to the

Government) the revenue assessed upon the estate or part of the estate;

(*c*) the amount for the recovery of which the sale is ordered, and

(*d*) any other thing which the Certificate-officer considers it material for a purchaser to know in order to judge of the nature and value of the property

(*3*) Where a tenure, or a *raiyati* holding at fixed rates situated in an area in which Chapter XIV of the Bengal Tenancy Act 1885[1], is in force, is to be sold in execution of a certificate for arrears of rent due in respect thereof, the said proclamation shall also state that the tenure or holding will first be put up to auction subject to registered and notified incumbrances, and will be sold subject to those incumbrances if the sum bid is sufficient to liquidate the amount specified in the certificate, and costs, and that otherwise it will, if the certificate-holder so desires, be sold on a subsequent day, of which due notice will be given, with power to annul all incumbrances

(*4*) Where an occupancy holding, situated in an area in which Chapter XIV of the Bengal Tenancy Act, 1885[1], is in force, is to be sold in execution of a certificate for arrears of rent due in respect thereof, the said proclamation shall also state that the holding will be sold with power to annul all incumbrances

(*5*) Where the certificate-holder is a co-sharer landlord and the certificate is for his share of the rent only, the provisions of sub-rules (*3*) and (*4*) shall not apply

(*6*) For the purpose of ascertaining the matters to be specified in the proclamation, the Certificate-officer may summon any person whom he thinks necessary to summon, and may examine him in respect to any such matters and require him to produce any document in his possession or power relating thereto

Mode of making proclamation

47. (*1*) Every proclamation for the sale of immovable property shall be made at some place on or near such property by beat of drum or other customary mode, and a copy of the proclamation shall be affixed on a conspicuous part of the property and then upon a conspicuous part of the office of the Certificate-officer.

(*2*) Where the Certificate-officer so directs, such proclamation shall also be published in the Calcutta Gazette or in a local newspaper, or in both, and the cost of such publication shall be deemed to be costs of the sale

(*3*) If a tenure, a *raiyati* holding at fixed rates or an occupancy holding situated in an area in which Chapter XIV of the

[1] Printed in Vol I of this Code

(*Schedule II.—Rules.—Rules 48, 49.*)

Bengal Tenancy Act, 1885[1], is in force is to be sold in execution of a certificate for arrears of rent due in respect thereof, the proclamation shall also be published in the *Malkachari* or rent office of the estate and at the local *thana*.

(4) Where property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Certificate-officer, otherwise be given.

48. Save in the case of property of the kind described in the proviso to rule 15, no sale hereunder shall, without the consent in writing of the certificate-debtor, take place until after the expiration of at least thirty days in the case of immovable property, or of at least fifteen days in the case of movable property exceeding twenty rupees in value, calculated from the date on which a copy of a sale proclamation has been affixed in a conspicuous part of the office of the Certificate-officer. Time of sale

Provided that if a tenure, a *raiyati* holding at fixed rates or
in which Chapter XIV
force, is to be sold in
of rent due in respect
thereof, the sale shall not, without the consent in writing of the certificate-debtor, take place until after the expiration of at least thirty days, calculated from—

(*a*) the date on which a copy of the sale proclamation has been affixed in a conspicuous part of the office of the Certificate-officer, or

(*b*) the date on which the sale proclamation has been published in the *Malkachari* or rent office of the estate and at the local *thana*,

whichever is later.

49. (*1*) No holder of a certificate in execution of which property is sold shall, without the express permission of the Certificate-officer, bid for or purchase the property. Purchase of property by the certificate holder

(*2*) Where a certificate-holder purchases with such permission, the purchase money and the amount due on the certificate may be set off against one another and the Certificate-officer executing the certificate shall enter up satisfaction of the certificate in whole or in part accordingly.

(*3*) Where a certificate-holder purchases, by himself or through another person, without such permission the Certificate-officer may, if he thinks fit, on the application of the certificate-debtor or any other person whose interests are affected by the sale, by order set aside the sale, and the costs of such application and order, and any deficiency of price which may

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[1] Printed in Vol. I of this Code.

happen on the re-sale and all expenses attending it shall be paid by the certificate-holder

(*4*) This rule shall not apply when the certificate holder is the Secretary of State for India in Council

Adjournment or stoppage of sale

50. (*1*) The Certificate officer may in his discretion adjourn any sale hereunder to a specified day and hour and the officer conducting any such sale may in his discretion adjourn the sale recording his reasons for such adjournment

Provided that where the sale is made in or within the precincts of the office of the Certificate officer no such adjournment shall be made without the leave of the Certificate officer

(*2*) Where a sale is adjourned under sub-rule (*1*) for a longer period than seven days a fresh proclamation under rule 47 shall be made unless the certificate-debtor consents to waive it

(*3*) Every sale shall be stopped if before the lot is knocked down the debt and costs (including the costs of the sale) are tendered to the officer conducting the sale or proof is given to his satisfaction that the amount of such debt and costs has been paid to the Certificate officer who ordered the sale

Defaulting purchaser answerable for loss on re-sale

51. Any deficiency of price which may happen on a re-sale by reason of the purchaser's default and all expenses attending such re-sale shall be certified to the Certificate officer by the officer or other person holding the sale and shall at the instance of either the certificate holder or the certificate debtor be recoverable from the defaulting purchaser under the procedure provided by this Act

Restriction on bidding or purchase by officers

52. No officer or other person having any duty to perform in connection with any sale shall either directly or indirectly, bid for acquire or attempt to acquire any interest in the property sold

Levy of poundage fees

53 (*1*) Poundage fees shall be leviable in Court fee stamps in all cases of sale under the Bengal Public Demands Recovery Act 1913 at the rate of 2 *per cent* on the gross amount realized by the sale up to Rs 1000 and at the rate of 1 *per cent* on all excess of gross proceeds beyond Rs 1000

Provided that, where a sale of immovable property is set aside under section 25 sub section (*2*) of the Act any poundage or other fee charged for selling the property shall on application be refunded

(*2*) The percentage leviable shall be calculated on multiples of Rs 25 that is to say a poundage fee of 8 annas shall be levied for every Rs 25 or part of Rs 25 realized by the sale up to Rs 1000 and in the case of the proceeds of the sale exceeding Rs 1000 a fee of 4 annas for every Rs 25 or part thereof of the excess proceeds above Rs 1000 shall be levied

(*3*) In cases in which several properties are sold in satisfaction of one certificate only one poundage fee calculated on the gross sale proceeds shall be levied 2 *per cent* being charged on the gross sale proceeds up to Rs 1000 and one *per cent* on the excess over Rs 1000 of such proceeds

(*Schedule II.—Rules.—Rules 54, 55.*)

(*4*) The proceeds of a sale effected in execution of any certificate may be paid out of Court only on an application made for that purpose in writing, and the poundage fee for selling the property must be paid by stamps affixed to the first of such applications, whether it be, or be not, made by the person who obtained the order for sale, or whether it does or does not, extend to the whole of the proceeds. No fee shall be chargeable upon any such application subsequent to the first.

(*5*) In cases in which the certificate holder applies for leave to purchase under rule 49, sub-rule (*1*), no order to set off the purchase-money against the amount of certificate shall be made upon the application for leave to purchase. Such order shall be made upon a petition presented after the property has been knocked down to the certificate holder at the auction sale and such petition shall be stamped with stamps of the value of the poundage fee due for selling the property.

54. Upon the hearing of the petition referred to in rule 53, sub-rule (5), the costs of execution, including the amount of the stamps attached to the petition, shall be ascertained and shall be added to the certificate, and in cases in which the amount of the purchase-money exceeds the amount of the certificate and of such costs, the certificate-holder who has so purchased the property shall pay to the Certificate-officer the sum of 25 *per cent.* upon the balance of the purchase-money after deducting the amount of the certificate and of such costs, and shall pay the balance on or before the fifteenth day from the sale in accordance with rule 69.

Addition of costs, etc., to certificate and payment by certificate holder of purchase money in excess of the amount of certificate.

Sale of movable property.

55. (*1*) Where the property to be sold is agricultural produce, the sale shall be held,—

Sale of agricultural produce.

(*a*) if such produce is a growing crop—on or near the land on which such crop has grown, or

(*b*) if such produce has been cut or gathered—at or near the threshing-floor or place for treading out grain or the like, or fodder-stack on or in which it is deposited:

Provided that the Certificate-officer may direct the sale to be held at the nearest place of public resort, if he is of opinion that the produce is thereby likely to sell to greater advantage.

(*2*) Where, on the produce being put up for sale,—

(*a*) a fair price, in the estimation of the person holding the sale, is not offered for it, and

(*b*) the owner of the produce or a person authorized to act in his behalf, applies to have the sale postponed till the next day or, if a market is held at the place of sale, the next market day,

the sale shall be postponed accordingly, and shall be then completed, whatever price may be offered for the produce.

Special provisions relating to growing crops

56. (*1*) Where the property to be sold is a growing crop, and the crop from its nature admits of being stored but has not yet been stored, the day of the sale shall be so fixed as to admit of the crop being made ready for storing before the arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing.

(*2*) Where the crop from its nature does not admit of being stored, it may be sold before it is cut and gathered; and the purchaser shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending and cutting or gathering the crop

Sale by public auction

57. (*1*) Where movable property is sold by public auction, the price of each lot shall be paid at the time of sale or as soon after as the officer or other person holding the sale directs, and in default of payment the property shall forthwith be re-sold.

(*2*) On payment of the purchase-money, the officer or other person holding the sale shall grant a receipt for the same, and the sale shall become absolute

(*3*) Where the movable property to be sold is a share in goods belonging to the certificate-debtor and a co-owner, and two or more persons, of whom one is such co-owner, respectively bid the same sum for such property or for any lot, the bidding shall be deemed to be the bidding of the co-owner

Irregularity not to vitiate sale, but any person injured may sue

58. No irregularity in publishing or conducting the sale of movable property shall vitiate the sale, but any person sustaining substantial injury by reason of such irregularity at the hand of any other person may institute a suit in a Civil Court against him for compensation, or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

Delivery of movable property debts and shares

59. (*1*) Where the property sold is movable property of which actual seizure has been made, it shall be delivered to the purchaser

(*2*) Where the property sold is movable property in the possession of some person other than the certificate-debtor, the delivery thereof to the purchaser shall be made by giving notice to the person in possession, prohibiting him from delivering possession of the property to any person except the purchaser

(*3*) Where the property sold is a debt not secured by a negotiable instrument, or is a share in a Corporation, the delivery thereof shall be made by a written order of the Certificate-officer prohibiting the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or prohibiting the person in whose name the share may be

standing from making any transfer of the share to any person except the purchaser or receiving payment of any dividend or interest thereon, and the manager, secretary or other proper officer of the Corporation from permitting any such transfer or making any such payment to any person except the purchaser.

Transfer of negotiable instruments and shares.

60. (*1*) Where the execution of a document, or the endorsement of the party in whose name a negotiable instrument or a share in a Corporation is standing, is required to transfer such negotiable instrument or share, the Collector, or such officer as he may appoint in this behalf, may execute such document or make such endorsement as may be necessary, and such execution or endorsement shall have the same effect as an execution or endorsement by the party.

(*2*) Such execution or endorsement may be in the following form, namely:—

> *A. B.*, by *C. D.*, Collector of the district of   , in a proceeding under the Bengal Public Demands Recovery Act, 1913, against *A. B.*

(*3*) Until the transfer of such negotiable instrument or share, the Certificate-officer may, by order, appoint some person to receive any interest or dividend due thereon, and to sign a receipt for the same; and any receipt so signed shall be as valid and effectual for all purposes as if the same had been signed by the party himself.

Vesting order in case of other property.

61. In the case of any movable property not hereinbefore provided for, the Certificate-officer may make an order vesting such property in the purchaser or as he may direct; and such property shall vest accordingly.

Sale of immovable property.

Sale of tenure or holding at fixed rates subject to registered and notified incumbrances.

62. (*1*) When a tenure or a holding at fixed rates situated in an area in which Chapter XIV of the Bengal Tenancy Act, 1885[1], is in force, has been advertised under rule 16 for sale in execution of a certificate for arrears of rent due in respect thereof, it shall be put up to auction subject to registered and notified incumbrances, and, if the bidding reaches a sum sufficient to liquidate the amount of the certificate and the costs of the sale, the tenure or holding shall be sold subject to such incumbrances.

(*2*) The purchaser at such sale may, in manner provided by section 167 of the Bengal Tenancy Act, 1885[1], and not otherwise, annul any incumbrance upon the tenure or holding, not being a registered and notified incumbrance.

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[1] Printed in Vol. I of this Code.

(*Schedule II.—Rules—Rules 63-66*)

Sale of tenure or holding at fixed rates, with power to avoid all incumbrances

63. (*1*) If the bidding for a tenure or a holding at fixed rates, put up to auction under rule 62, does not reach a sum sufficient to liquidate the amount of the certificate and costs as aforesaid, and if the certificate-holder thereupon desires that the tenure or holding be sold with power to avoid all incumbrances, the person holding the sale shall adjourn the sale and make a fresh proclamation under rule 46 announcing that the tenure or holding will be put up to auction and sold with power to avoid all incumbrances, upon a future day specified therein, not less than fifteen or more than thirty days from the date of the postponement; and upon that day the tenure or holding shall be put up to auction and sold with power to avoid all incumbrances

(*2*) The purchaser at a sale under this rule may, in manner 8 provided by section 167 of the Bengal Tenancy Act, 1885[1], and not otherwise, annul any incumbrance on the tenure or holding

Sale of occupancy holding, with power to avoid all incumbrances

64. (*1*) When an occupancy-holding, situated in an area in which Chapter XIV of the Bengal Tenancy Act, 1885[1], is in 8 force, has been advertised under rule 46 for sale in execution of a certificate for arrears of rent due in respect thereof, it shall be put up to auction and sold with power to avoid all incumbrances

(*2*) The purchaser at a sale under this rule may, in manner provided by section 167 of the Bengal Tenancy Act, 1885[1], and 8 not otherwise, annul any incumbrance on the holding

Rules 62 to 64 not to apply in certain cases to certificate holders who are co-sharer landlords

65. Where the certificate-holder is a co-sharer landlord and the certificate is for his share of the rent only, the provisions of rules 62, 63 and 64 shall not apply

Postponement of sale to enable certificate debtor to raise amount due under certificate

66. (*1*) Where an order for the sale of immovable property has been made, if the certificate-debtor can satisfy the Certificate-officer that there is reason to believe that the amount of the certificate may be raised by the mortgage or lease or private sale of such property, or some part thereof or of any other immovable property of the certificate debtor, the Certificate-officer may, on his application, postpone the sale of the property comprised in the order for sale, on such terms and for such period as he thinks proper, to enable him to raise the amount

(*2*) In such case the Certificate-officer shall grant a certificate to the certificate-debtor, authorizing him, within a period to be mentioned therein, and notwithstanding anything contained in section 8 or section 18, to make the proposed mortgage, lease or sale

Provided that all moneys payable under such mortgage, lease or sale shall be paid, not to the certificate debtor, but to the Certificate-officer.

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[1] Printed in Vol I of this Code

Provided also that no mortgage, lease or sale under this rule shall become absolute until it has been confirmed by the Certificate-officer.

Prohibition of purchase of tenure or holding by certificate debtor

67. (*1*) When a tenure or holding, situated in an area in which Chapter XIV of the Bengal Tenancy Act, 1885[1], is in force, is put up for sale in execution of a certificate for arrears of rent due in respect thereof, the certificate-debtor shall not bid for or purchase the tenure or holding.

(*2*) If a certificate-debtor purchases, by himself or through another person, a tenure or holding so sold the Certificate-officer may, if he thinks fit, on the application of the certificate-holder or any other person interested in the sale, by order, set aside the sale, and the costs of the application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it, shall be paid by the certificate-debtor.

Deposit by purchaser and re-sale in default

68. On every sale of immovable property, the person declared to be the purchaser shall pay, immediately after such declaration, a deposit of twenty-five *per cent* on the amount of his purchase-money, to the officer or other person conducting the sale; and, in default of such deposit, the property shall forthwith be re-sold.

Time for payment of purchase money in full

69. The full amount of purchase-money payable shall be paid by the purchaser to the Certificate officer on or before the fifteenth day from the sale of the property.

Procedure in default of payment

70. In default of payment within the period mentioned in rule 69, the deposit may, if the Certificate-officer thinks fit, after defraying the expenses of the sale be forfeited to the Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.

Notification on re-sale

71. Every re-sale of immovable property, in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore prescribed for the sale.

Bid of co-sharer to have preference

72. Where the property sold is a share of undivided immovable property, and two or more persons of whom one is a co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

Return of purchase money in certain cases

73. Where a sale of immovable property is set aside, any money paid or deposited by the purchaser on account of the purchase, together with the penalty (if any) referred to in clause (*b*) of section 22, and such interest as the Certificate-officer may allow, shall be paid to the purchaser.

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[1] Printed in Vol. I of this Code.

Certificate to purchaser

74. (*1*) Where a sale of immovable property has become absolute, the Certificate-officer shall grant a certificate specifying the property sold and the name of the person who at the time of sale is declared to be the purchaser.

(*2*) Such certificate shall bear the date day on which the sale became absolute

Delivery of property in occupancy of certificate debtor

75. Where the immovable property sold is in the occupancy of the certificate-debtor, or of some person on his behalf, or of some person claiming under a title created by the certificate-debtor subsequently to the service of the notice issued under section 7, and a certificate in respect thereof has been granted under rule 74, the Certificate-officer shall, on the application of the purchaser, order delivery to be made by putting such purchaser, or any person whom he may appoint to receive delivery on his behalf, in possession of the property, and, if need be, by removing any person who refuses to vacate the same

Delivery of property in occupancy of tenant or other person

76. Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under rule 74, the Certificate officer shall, on the application of the purchaser, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, that the interest of the certificate-debtor has been transferred to the purchaser

ARREST AND DETENTION

Discretionary power to permit certificate debtor to show cause against detention in prison

77. (*1*) The Certificate-officer may, before issuing a warrant for the arrest of the certificate-debtor, issue a notice calling upon him to appear before the Certificate-officer, on a day to be specified in the notice, and show cause why he should not be committed to the civil prison.

(*2*) Where appearance is not made in obedience to the notice, the Certificate-officer may issue a warrant for the arrest of the certificate-debtor

Subsistence allowance

78. (*1*) When a certificate has been signed either in accordance with the provisions of section 4, or on a requisition made under section 5, no certificate-debtor shall be arrested in execution of the certificate unless and until the certificate-holder pays into Court such sum as the Certificate-officer thinks sufficient for the subsistence of the certificate-debtor from the time of his arrest until he can be brought before the Certificate-officer

(*2*) When a certificate-debtor is committed to the civil prison in execution of a certificate, the Certificate-officer shall fix for his subsistence such monthly allowance as he may be entitled to according to the scale fixed by the Local Government for the subsistence of arrested judgment-debtors, or,

(*Schedule II—Rules—Rules 79-82*)

where no such scale has been fixed, as the Certificate-officer considers sufficient with reference to the class to which the certificate-debtor belongs

(*3*) The monthly allowance fixed by the Certificate-officer, shall be supplied, by the person upon whose requisition the certificate was signed, by monthly payments in advance before the first day of each month

(*4*) The first payment shall be made to the Certificate-officer for such portion of the current month as remains unexpired before the certificate-debtor is committed to the civil prison, and the subsequent payments (if any) shall be made to the officer in charge of the civil prison

(*5*) Sums disbursed by the certificate holder for the subsistence of the certificate-debtor in the civil prison shall be deemed to be costs in the proceeding

Provided that the certificate-debtor shall not be detained in the civil prison or arrested on account of any sum so disbursed

SUPPLEMENTAL

79. (*1*) Every Certificate-officer shall cause to be kept in his office a register of certificates filed in his office under this Act, and shall cause particulars of all such certificates to be entered in such register

Register of certificates

(*2*) Such register shall be open during office hours, for not less than two hours daily, and at such time as may be fixed by the Collector, for inspection by any person who desires to inspect the same, and a fee of one anna shall be chargeable for every such inspection

NOTE The fee should be prepaid by Court fee stamp affixed to the application

80. (*1*) Payment of the amount due under any certificate may be made by instalments if the Certificate officer in whose office the certificate is filed so directs

Payment by instalments

(*2*) The payment of every such instalment shall be entered in the register referred to in rule 79

81. When a copy of a certificate has been sent to another officer under section 12 sub-section (*1*) all sums except Government demands received by such officer under such certificate shall be remitted by him to the Certificate-officer in whose office the original certificate is filed

Remmitance to Certificate officer of sums received under a certificate transferred for execution

82. When the whole or any portion of the amount due under a certificate has been realized, the Certificate-officer in whose office the original certificate is filed shall cause an entry of the fact to be made upon the certificate and in the register referred to in rule 79

Entry of satisfaction

(*Schedule II — Rules — Rules 83, 84.—Form No. 1.*)

Communication of satisfation to other persons.

83. When a copy of a certificate has been sent to another officer under section 12, sub-section (*1*),

or when a certificate has been signed upon a requisition,

any satisfaction of the certificate, whether in whole or in part shall be certified to such officer, or to the sender of such requisition, as the case may be

FORMS

Forms in Appendix

84. The forms set forth in the Appendix shall be used, with such variations as circumstances may require

APPENDIX.

FORMS

(*See rule 84*)

FORM No 1

CERTIFICATE OF PUBLIC DEMAND

(*See sections 4 and 6*)

Filed in the Office of the Certificate officer of (name of District)

No of Certificate	Name and address of certificate holder	Name and address of certificate debtor	Amount of public demand [including interest if any and including the fee paid under section 5 sub section (*2*) if any] for which this certificate is signed and period for which such demand is due	Further particulars of the public demand for which this certificate is signed
1	2	3	4	5

I hereby certify that the above mentioned sum of Rs   is due to the above named   from the above named

[*If the certificate is signed on requisition sent under section 5, add*—]

I further certify that the above mentioned sum of Rs   is justly recoverable and that its recovery by suit is not barred by law

Dated this   day of   19

A B,

Certificate officer of

(Schedule II—Forms Nos 2, 3)

FORM No. 2

Requisition for a Certificate

(See section 5)

To the Certificate officer of the district of

Name of certificate debtor	Address of certificate debtor	Amount of public demand for which this requisition is made	Nature of the public demand for which this requisition is made
1	2	3	4

I request you to recover the above mentioned sum of Rs , which I am satisfied after inquiry, is due from the said
in respect of

Verified by me on the day of , 19

A B,

(Designation)

FORM No 3

Notice to Certificate debtor

(See section 7)

To *(name of Certificate debtor)*

You are hereby informed that a certificate against you for Rs due from you on account of has this day been filed in my office under section of the Bengal Public Demands Recovery Act 1913 If you deny your liability to pay the said sum of Rs [illegible] otice file [illegible] and thirty [illegible] not show [illegible] d under [illegible] it of the [illegible] the said *property* [illegible] cancel [illegible] executed immediately

A copy of the certificate above mentioned is hereto annexed

You may remit the amount by money order quoting the number and year of the certificate

Dated this day of , 19

A B.,

Certificate officer of

(Schedule II.—Forms Nos. 4, 5.)

FORM No. 4.

PETITION DENYING LIABILITY.

(See section 9.)

To

THE CERTIFICATE OFFICER OF

The humble petition of (*name of petitioner*) of (*address*).

SHOWETH—

That a certificate No. of (*year*), for the sum of Rs. has been filed against your petitioner in your office under section of the Bengal Public Demands Recovery Act, 1913.

That your petitioner respectfully denies his liability to pay the said sum of Rs. (*or, where the liability to pay part is admitted*, denies his liability to pay more than Rs.), and this for the following reasons:—

That the facts above stated are true to the best of your petitioner's knowledge and belief.

Your petitioner therefore respectfully prays that the said certificate may be set aside (*or* modified *or* varied).

A. B.,

(*Petitioner*)

FORM No. 5.

NOTICE TO SHOW CAUSE WHY SALE SHOULD NOT BE SET ASIDE.

[*See proviso to section 25 (2).*]

To

WHEREAS the undermentioned property was sold on the day of , 19 , in execution of certificate No. , dated the , 19 . And whereas , the certificate-holder [*or* certificate-debtor] has applied to me to set aside the sale of the said property on the ground that

Take notice that if you have any cause to show why the said application should not be granted, you should appear with your proofs in this office on the , day of , 19 , when the said application will be heard and determined.

GIVEN under the seal of the Court, this day of 19 .

Description of property.

Certificate officer.

(*Schedule II.—Forms Nos 6, 7.*)

FORM No 6

SUMMONS TO APPEAR AND ANSWER CHARGE OF OBSTRUCTING EXECUTION OF CERTIFICATE

[*See section 27 (2)*]

Certificate No of 19

To

WHEREAS , the certificate holder in the above certificate has complained to this Court that you have resisted (or obstructed) the officer charged with the execution of the warrant for possession

You are hereby summoned to appear in this Court on the day of 19 , at A M to answer the said complaint

Given under the seal of the Court, this day of 19 .

Certificate officer of

FORM No 7

WARRANT OF COMMITTAL

(*See section 28*)

To

THE OFFICER IN CHARGE OF THE CIVIL PRISON AT

WHEREAS the undermentioned property has been sold to the purchaser at auction sale in execution of certificate case No dated 19 , and whereas the Court is satisfied that without any just cause resisted (or obstructed) and is still resisting (or obstructing) the said in obtaining possession of the property, and whereas the said has made application to this Court that the said be committed to the civil prison ,

You are hereby commanded and required to take and receive the said into the civil prison and to keep him imprisoned therein for the period of days

Given under the seal of the Court this day of 19

Certificate officer

(Schedule II.—Forms Nos. 8, 9.)

FORM No 8

WARRANT OF ARREST

(See section 29)

To

	Rs	A	P
Original demand			
Interest			
Costs			
Execution			
Total			

WHEREAS a certificate No was filed in this office on the , 19 , under section of the Bengal Public Demands Recovery Act 1913, against , certificate debtor and the sum of Rs , as noted in the margin is due from him in respect of the said certificate, and whereas the said sum of Rs has not been paid to the certificate holder in satisfaction of the said certificate these are to command you to arrest the said certificate debtor and unless the said certificate debtor shall pay to you the said sum of Rs , together with Rs for the costs of executing this process, to bring him before the Court with all convenient speed

You are further commanded to return this warrant on or before the day of 19 , with an endorsement certifying the day on which and the manner in which it has been executed, or the reason why it has not been executed

Dated this day of 19

Certificate officer

FORM No 9

ORDER COMMITTING CERTIFICATE DEBTOR TO THE CIVIL PRISON

(See section 29)

To

The Officer in charge of the Civil Prison at

WHEREAS who has been brought before me this day of , 19 , under a warrant in execution of certificate No , filed in this office on the , 19 , under section of the Bengal Public Demands Recovery Act 1913, and by which certificate it was ordered that the said should pay , and whereas the said has not paid the said sum nor satisfied me that he is entitled to be discharged from custody,

You are hereby in the name of the King Emperor of India, commanded and required to take and receive the said into the Civil Prison and keep him imprisoned therein for a period not exceeding or until the said certificate shall be fully satisfied, or the said shall be otherwise entitled to be released according to the terms and provisions of section 31 or section 32 of the said Act, and I hereby fix annas *per diem* as the rate of the monthly allowance for the subsistence of the said during his confinement under this order of committal

Dated this day of , 19 .

Certificate officer

(Schedule II.—Forms Nos. 10, 11.)

FORM No. 10.

ORDER FOR THE RELEASE OF A PERSON IMPRISONED IN EXECUTION OF A CERTIFICATE.

[*See sections 31 and 32.*]

District

Certificate No. of 19 .

To

THE OFFICER IN CHARGE OF THE CIVIL PRISON

AT ____________________

UNDER orders passed this day, you are hereby directed to set free certificate debtor, now in your custody.

Dated this *day of* *, 19* .

Certificate officer.

FORM No. 11.

NOTICE TO LEGAL REPRESENTATIVE OF CERTIFICATE DEBTOR.

(*See section 43.*)

To (*name of legal representative*)

You are hereby informed that a certificate against , deceased, for Rs due from him on account of was filed in this office on the 19 , under section of the Bengal Public Demands Recovery Act, 1913, and that a demand of Rs , in respect of the said certificate proceeding is due from you as the legal representive of the said , deceased. If you deny your liability to pay the said sum of Rs , you may, within thirty days from the service of this notice file in my office a petition denying liability in whole or in part. If within the said thirty days, you fail to file such a petition or if you fail to show cause or do not show sufficient cause why such certificate should not be executed it will be executed under the provisions of the said Act, unless you pay Rs (Rs on account of the demand and Rs on account of costs of realization) into my office. Until the said amount is so paid you are hereby prohibited from alienating your immovable property, or any part of it by sale, gift, mortgage or otherwise. If you in the meantime conceal remove or dispose of any part of your movable property the certificate will be executed immediately.

A copy of the certificate above mentioned is hereto annexed.

You may remit the amount by money-order quoting the number and year of the certificate.

Dated this day of , 19

A. B.,

Certificate officer of .

(*Schedule II.—Forms Nos. 12, 13.*)

FORM No 12

Attachment in Execution

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF DEBTS NOT BEING NEGOTIABLE INSTRUMENTS, OR OF MOVABLE PROPERTY NOT IN THE POSSESSION OF THE CERTIFICATE DEBTOR

[*See rule 18 (1) (a) and (c)*]

To

WHEREAS has failed to satisfy certificate No. of 19 for Rs , it is ordered that defendant be and is hereby prohibited and restrained until the further order of this Court, from receiving from you [1] to the said certificate debtor, namely, and that you, the said be, and you are hereby prohibited and restrained, until the further order of this Court from [2] to any person whomsoever, or otherwise than into this Court

GIVEN under the seal of the Court this day of 19

Certificate officer of

---

1 A certain debt alleged now to be due from you or certain movable property in your possession but alleged to belong

2 Making payment of the said debt or giving delivery of the said movable property

---

FORM No 13

Attachment in Execution

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN THE CAPITAL OF A CORPORATION

[*See rule 18 (1) (b)*]

To

, certificate debtor

and to , Secretary of Corporation

WHEREAS has failed to satisfy Certificate No of 19 , for Rs it is ordered that you, the defendant, be and you are hereby, prohibited and restrained until the further order of t

are hereby prohibited and restrained from permitting any such transfer or making any such payment

GIVEN under the seal of the Court, this day of 19

Certificate officer of

Sen. Act 3

(*Schedule II—Forms Nos 18-20*)

FORM No 18

NOTICE TO CERTIFICATE HOLDER

(*See rule 39*)

WHEREAS has made application to this Court for the removal of attachment on placed at your instance in execution of Certificate No of 19 this is to give you notice to appear before me on the day of 19 , either in person or by a pleader duly instructed to support your claim as attaching creditor

GIVEN under the Seal of the Court this day of , 19

Certificate officer

FORM No 19

WARRANT OF SALE OF PROPERTY

(*See rule 44*)

To

THE

THESE are to command you to sell by auction after giving days' previous notice, by affixing the same in this office and after making due proclamation the undermentioned property attached in execution of Certificate No in favour of , or so much of the said property as shall realize the sum of Rs , being the of the said certificate and costs still remaining unsatisfied

You are further commanded to return this warrant on or before the day of , 19 with an endorsement certifying the manner in which it has been executed or the reason why it has not been executed

GIVEN under the Seal of the Court this day of , 19 .

Specification of property—

Certificate officer

FORM No 20

NOTICE OF THE DAY FIXED FOR SETTLING A SALE PROCLAMATION

(*See rule 46*)

To certificate debtor

WHEREAS in execution of Certificate No of a sale is about to be held of your property mentioned below, you are hereby informed that the day of , 19 , has been fixed for settling the terms of the proclamation of sale

The total amount due from you in respect of the certificate including costs and interest is

GIVEN under the Seal of the Court, this day of , 19

Specification of property—

Certificate officer

(*Schedule II—Forms Nos. 16, 17.*)

FORM No 16

ORDER OF ATTACHMENT OF NEGOTIABLE INSTRUMENT

[*See rule 21*]

To

THE COLLECTORATE *Nazir*

WHEREAS an order has been passed by this Court on the

and

GIVEN under the seal of the Court, this day of 19

Certificate officer

FORM No. 17

ATTACHMENT

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY OR OF ANY SECURITY IN THE CUSTODY OF A COURT OF JUSTICE OR OFFICER OF GOVERNMENT

(*See rule 22*)

Certificate case No of 19 .

To

SIR,

THE certificate holder having applied under rule 22 of Schedule II of the Bengal Public Demands Recovery Act, 1913, for an attachment of certain money now in your hands,[1]

I request that you will hold the said money subject to the further order of this Court

I have the honour to be,

SIR,

Your most obedient servant,

Certificate officer of

Dated the day of 19

---

[1] Here state how the money is supposed to be in the hands of the person addressed on what account, etc

(*Schedule II—Forms Nos 18-20*)

FORM No 18

NOTICE TO CERTIFICATE HOLDER

(*See rule 39*)

WHEREAS has made application to this Court for the removal of attachment on placed at your instance in execution of Certificate No of 19 this is to give you notice to appear before me on the day of 19 , either in person or by a pleader duly instructed to support your claim as attaching creditor

GIVEN under the Seal of the Court this day of , 19

Certificate officer

FORM No 19

WARRANT OF SALE OF PROPERTY

(*See rule 44*)

To

THE

days'
tion,
favour of , or so much of the said property as shall realize the sum of Rs , being the of the said certificate and costs still remaining unsatisfied

You are further commanded to return this warrant on or before the day of , 19 with an endorsement certifying the manner in which it has been executed or the reason why it has not been executed

GIVEN under the Seal of the Court this day of , 19 .

Specification of property —

Certificate officer

FORM No 20

NOTICE OF THE DAY FIXED FOR SETTLING A SALE PROCLAMATION

(*See rule 46*)

To certificate debtor

WHEREAS, in execution of Certificate No of a sale is about to be held of your property mentioned below, you are hereby informed that the day of , 19 , has been fixed for settling the terms of the proclamation of sale

The total amount due from you in respect of the certificate including costs and interest is

GIVEN under the Seal of the Court, this day of , 19

Specification of property —

Certificate officer

(Schedule II.—Forms Nos. 16, 17.)

FORM No 16.

ORDER OF ATTACHMENT OF NEGOTIABLE INSTRUMENT

[*See rule 21*]

To

THE COLLECTORATE *Nazir*

WHEREAS an order has been passed by this Court on the day of 19 for the attachment of , you are hereby directed to seize the said and bring the same into Court

GIVEN under the seal of the Court, this day of 19

Certificate officer

FORM No 17

ATTACHMENT

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY OR OF ANY SECURITY IN THE CUSTODY OF A COURT OF JUSTICE OR OFFICER OF GOVERNMENT

(*See rule 22*)

Certificate case No of 19 .

To

SIR,

THE certificate holder having applied, under rule 22 of Schedule II of the Bengal Public Demands Recovery Act, 1913, for an attachment of certain money now in your hands ,[1]
I request that you will hold the said money subject to the further order of this Court

I have the honour to be,

SIR,

Your most obedient servant,

Certificate officer of .

Dated the day of 19

---

[1] Here state how the money is supposed to be in the hands of the person addressed on what account etc

(*Schedule II—Forms Nos. 18-20*)

FORM No 18

NOTICE TO CERTIFICATE HOLDER

(*See rule 39*)

WHEREAS has made application to this Court for the *removal of attachment on* *placed at your instance in execution* of Certificate No of 19 this is to give you notice to appear before me on , the day of 19 , either in person or by a pleader duly instructed to support your claim as attaching creditor

GIVEN under the Seal of the Court this day of , 19

Certificate officer.

FORM No 19

WARRANT OF SALE OF PROPERTY

(*See rule 44*)

To

THE

THESE are to command you to sell by auction after giving days previous notice by affixing the same in this office and after making due proclamation the undermentio

favour of

Rs being the of

unsatisfied

You are further commanded to return this warrant on or before the day of 19 with an endorsement certifying the manner in which it has been executed or the reason why it has not been executed

GIVEN *under the Seal of the Court this* *day of* 19

Specification of property —

Certificate officer

FORM No 20

NOTICE OF THE DAY FIXED FOR SETTLING A SALE PROCLAMATION

(*See rule 46*)

To *certificate debtor*

WHEREAS in execution of Certificate No of a sale is about to be held of your property mentioned below , you are hereby informed that the day of 19 , has been fixed for settling the terms of the proclamation of sale

The total amount due from you in respect of the certificate including costs and interest is

GIVEN under the Seal of the Court this day of , 19

Specification of property —

Certificate officer.

(*Schedule II —Form No 21.*)

FORM No 21

PROCLAMATION OF SALE

(*See rule 46*)

Certificate No , of 19 under which is the certificate-holder and is the certificate-debtor

NOTICE is hereby given that, under rule 44 in Schedule II to the Bengal Public Demands Recovery Act, 1913, an order has been passed by me for the sale of the property mentioned in the annexed schedule, in satisfaction of the claim of the certificate holder under the certificate mentioned in the margin amounting, with costs and interest up to date of sale to the sum of

The sale will be by public auction and the property will be put up for sale in the lots specified in the schedule The sale will be of the property of the certificate debtor above named as mentioned in the schedule below

In the absence of any order of postponement the sale will be held by at the monthly sale commencing at o'clock on the at

In the event however of the debt above specified, and of the costs of the sale being tendered or paid before the knocking down of any lot, the sale will be stopped

At the sale the public generally are invited to bid, either personally or by duly authorized agent The following are the further

Conditions of Sale

1 The particulars specified in the schedule below have been stated to the best of the information of the Certificate officer but the Certificate officer will not be answerable for any error misstatement or omission in this proclamation

2 The amount by which the biddings are to be increased shall be determined by the officer conducting the sale In the event of any dispute arising as to the amount bid or as to the bidder, the lot shall at once be again put up to auction

3 The highest bidder shall be declared to be the purchaser of any lot, provided always that he is legally qualified to bid, and provided that it shall be in the discretion of the officer holding the sale to decline acceptance of the highest bid when the price offered appears so clearly inadequate as to make it advisable to do so

4 For reasons recorded it shall be in the discretion of the officer conducting the sale to adjourn it, subject always to the provisions of rule 53 in Schedule II to the Bengal Public Demands Recovery Act, 1913

5 In the case of movable property, the price of each lot shall be paid at the time of sale or as soon after as the officer holding the sale directs, and in default of payment the property shall forthwith be again put up and re sold

6 In the case of immovable property, the person declared to be the purchaser shall pay immediately after such declaration a deposit of 25 *per cent* on the amount of his fault of such deposit the

by the purchaser before the office of the Certificate officer closes on the fifteenth day after the sale of the property exclusive of such day or if the fifteenth day be a Sunday or other holiday, then on the first office day after the fifteenth day

8 In default of payment of the balance of purchase money within the period allowed, the property shall be re sold after the issue of a fresh notification of sale The thinks fit, claim to

GIVEN under Seal of the Court, this day of 19

Certificate officer

(Schedule II—Form No. 22.)

Schedule of property

Number of lot	Description of property to be sold with the name of each owner where there are more certificate-debtors than one	The revenue assessed upon the estate or part of the estate, if the property to be sold is an interest in an estate or a part of an estate paying revenue to the Government	Claims (if any) which have been put forward to the property, and any other known particulars bearing on its nature and value
1	2	3	4

FORM No. 22

ORDER ON THE *Nazir* FOR CAUSING PUBLICATION OF PROCLAMATION OF SALE

(See rule 47.)

To

The *Nazir* of

WHEREAS an order has been made for the sale of the property of the certificate-debtor under Certificate No. dated the 19 , which is specified in the schedule hereunder annexed, and whereas the day of 19 has been fixed for the sale of the said property, copies of the proclamation of sale are by this warrant made over to you, and you are hereby ordered to have the proclamation published by beat of drum within each of the properties specified in the said schedule, to affix a copy of the said proclamation on a conspicuous part of each of the said properties and afterwards in my office, and then to submit to me a report showing the dates on which and the manner in which the proclamations have been published.

Dated the day of 19 .

Schedule.

Certificate Officer.

(*Schedule II—Forms Nos. 23-25*)

FORM No 23

CERTIFICATE, BY OFFICER HOLDING A SALE OF THE DEFICIENCY OF PRICE ON A RE SALE OF PROPERTY BY REASON OF THE PURCHASER'S DEFAULT

(*See rule 51*)

CERTIFIED that at the re sale of the property in execution of Certificate No , dated the , 19 , in consequence of default on the part of purchaser, there was a deficiency in the price of the said property, amounting to Rs and that the expenses attending such re sale amounted to Rs , making a total of Rs which sum is recoverable from the defaulter

Dated the day of , 19

Officer holding the sale

FORM No 24

NOTICE TO PERSON IN POSSESSION OF MOVABLE PROPERTY SOLD IN EXECUTION

[*See rule 59 (2)*]

To

WHEREAS has become the purchaser at a public sale in execution of Certificate No , dated 19 of now in your possession) you are hereby prohibited from delivering possession of the said to any person except the said

GIVEN under the Seal of the Court this day of 19

Certificate officer.

FORM No 25

PROHIBITORY ORDER AGAINST THE TRANSFER OF SHARES SOLD IN EXECUTION

[*See rule 59 (3)*]

To

AND , SECRETARY OF CORPORATION

WHEREAS has become the purchaser at a public sale in execution of Certificate No , dated , 19 , of certain shares in the above Corporation, that is to say, of standing in the name of you , it is ordered that you be, and you are hereby, prohibited from making any transfer of the said shares to any person except the said , the purchaser aforesaid or from receiving any dividends thereon , and you , Secretary of the said Corporation, from permitting any such transfer or making any such payment to any person except the said the purchaser aforesaid

GIVEN under the Seal of the Court, this day of , 19

Certificate officer

(*Schedule II.—Forms Nos. 26, 27.*)

FORM No 26

PROHIBITORY ORDER AGAINST PAYMENT OF DEBTS SOLD IN EXECUTION TO ANY OTHER THAN THE PURCHASER

[*See rule 59(3)*]

To

AND TO

WHEREAS
has become the purchaser at a public sale in execution of Certificate No
of 19 , being debts due from you
to you , it is ordered that you
be, and you are hereby prohibited
from receiving, and you
from making payment of the said debt to any person or persons except the said

GIVEN under the Seal of the Court, this day
of , 19

Certificate-officer of .

FORM No 27

CERTIFICATE TO CERTIFICATE DEBTOR AUTHORIZING HIM TO MORTGAGE, LEASE OR SELL PROPERTY

(*See rule 66*)

WHEREAS in execution of Certificate No of 19 an order was made on the day of , 19 , for the sale of the undermentioned property of the certificate debtor and whereas the Court has on the application of the said certificate debtor postponed the said sale to enable him to raise the amount of the certificate by mortgage lease or private sale of the said property or of some part thereof

This is to certify that the Court doth hereby authorize the said certificate debtor to make the proposed mortgage lease or sale within a period of
from the date of this certificate provided that all monies payable under such mortgage, lease, or sale shall be paid into this Court and not to the said certificate debtor

DESCRIPTION OF PROPERTY

GIVEN under the seal of the Court, this day
of , 19

Certificate officer

(Schedule II.—Forms Nos. 28-30.)

FORM No. 28

CERTIFICATE OF SALE OF LAND.

(See rule 74.)

This is to certify that has been declared the purchaser, at a sale by public auction on the day of , 19 , of in execution of Certificate No , dated the , 19 , and that the said sale has been duly confirmed by me.

GIVEN under the Seal of the Court, this day of , 19 .

Certificate officer

FORM No. 29

ORDER FOR DELIVERY TO CERTIFIED PURCHASER OF LAND AT A SALE IN EXECUTION

(See rule 75.)

To

The

WHEREAS has become the certified purchaser of at a sale in execution of Certificate No , dated the , 19 , you are hereby ordered to put the said the certified purchaser, as aforesaid, into possession of the same

GIVEN under the Seal of the Court, this day of , 19

Certificate officer.

FORM No. 30

NOTICE TO SHOW CAUSE WHY WARRANT OF ARREST SHOULD NOT ISSUE.

(See rule 77.)

To

WHEREAS has made application to me for execution of Certificate No of 19 , by arrest and imprisonment of your person, you are hereby required to appear before me on the day of , 19 , to show cause why you should not be committed to the Civil Prison in execution of the said certificate

GIVEN under the Seal of the Court, this day of 19

Certificate officer

of 1913.]

APPENDIX.

List of dues which are recoverable in Bengal under the certificate procedure provided by the Bengal Public Demands Recovery Act, 1913 (Ben Act 3 of 1913)

1	2	3	4	5
Number and year.	Short title	Section	Nature of due.	Enactment where published
Ben Reg 2 of 1793	The Bengal Land revenue Regulation, 1793	33[1]	Fine imposed on land holder, tenant or native officer for neglecting to attend before Board of Revenue when required to do so.	Vol I
Ben Reg 3 of 1794	The Bengal Native Revenue officers Regulation, 1794.	13[1]	Arrears due from proprietors or farmers of land and payable to a *tahsildar* or other officer appointed by the Government to collect them	Do
Ben Reg 12 of 1817	The Bengal Patwaris' Regulation, 1817	32[1]	Fine imposed on proprietor or farmer neglecting to attend or to furnish accounts or information, before a Collector or other officer, when required to do so	Do
Ditto ..	Ditto ...	36[1]	Sums adjudged by the Collector in favour of a *patwari*, and fines imposed under this Regulation	Do
Ben Reg 2 of 1819	The Bengal Land revenue Assessment (Resumed Lands) Regulation, 1819	13 (1)[1]	Fine imposed on proprietor or farmer for neglecting to attend or to furnish accounts or documents before Collector or Commissioner, when summoned to do so	Do
Ditto ...	Ditto ...	14[1]	Fine imposed on *Zamindar* or other person resisting process.	Do
Ben Reg 7 of 1822	The Bengal Land revenue Settlement Regulation, 1822	23 (3)[1]	Money awarded under this Regulation	Do

[1] See the Bengal Public Demands Recovery Act 1913 (Ben. Act 3 of 1913) Sch. I, ante p. 3

APPENDIX—*contd.*

List of dues which are recoverable in Bengal under the certificate procedure provided by the Bengal Public Demands Recovery Act, 1913 (Ben Act 3 of 1913)—contd

1	2	3	4	5
Number and year	Short title	Section	Nature of due	Enactment where published
Ben Reg 6 of 1825	The Bengal Troops Transport Regulation 1825	4[1]	Fines imposed under this Regulation	Vol I
Ben Reg 9 of 1825	The Bengal Land revenue Settlement Regulation 1825	5 (*10*)[1]	Expenses of witnesses and costs adjudged by Revenue authorities	Do
Act 20 of 1848	The Bengal Land holders Attendance Act 1848	1[1]	Fine imposed on proprietor or farmer of land neglecting to attend, or to produce accounts or documents before Collector, when required to do so	Do
Act 12 of 1850	The Public Accountants Defaults Act, 1850	4[1]	Loss or defalcation in the accounts of a public officer	General Acts 1 8 3 4 6 7 Ed 1909, p 68
Act 32 of 1855	The Bengal Embankment Act 1855	11 (*2*)[1]	Sums due under this Act	Vol I
Act 13 of 1857	The Opium Act, 1857	16[1]	Balances due from cultivators or *mahtos* or intermediate managers	Do
Act 11 of 1859	The Bengal Land revenue Sales Act 1859	23[1]	Balance of arrears of revenue, after sale of estate or tenure	Do
Ben Act 5 of 1864	The Canals Act, 1864	8[1]	Sums due in respect of farm given under this section	Vol II
Ben Act 7 of 1866	The Bengal Embankment Act 1866	5[1]	Sums due under this Act	Do
Ben Act 7 of 1868	The Bengal Land revenue Sales Act, 1868	2[1]	Balance of arrears of revenue, after sale of estate or tenure Sums awarded as compensation under this section.	Do

[1] *See* the Bengal Public Demands Recovery Act, 1913 (Ben Act 3 of 1913), Sch I, *ante*, p 809

APPENDIX—*contd*

List of dues which are recoverable in Bengal under the certificate procedure provided by the Bengal Public Demands Recovery Act, 1913 (Ben Act 3 of 1913)—contd

1	2	3	4	5
Number and year	Short title	Section	Nature of due	Enactment where published
Ben Act 6 of 1870	The Village Chaukidari Act, 1870.	53 to 55[1]	Assessment on *Chaukidari Chakran* lands	Vol II
Act 7 of 1870	The Court fees Act, 1870 as amended by Act 11 of 1899 s 2	19 J[1]	Court fee on probate or letters of administration where value of property under estimated or too low a fee paid	General Acts 1868-78 Ed 1909 p 117
Ben Act 5 of 1875	The Bengal Survey Act 1875	20 29, 57[1]	Amounts due to the Collector under this Act	Vol II
Ditto ..	Ditto .	5 ?[1]	Fines imposed under section 51 52 or 53 of this Act	Do
Ben Act 3 of 1876	The Bengal Irrigation Act, 1876	12[1]	Expenses of removal or modification of obstruction to river stream or natural drainage course	Do
Ditto	*Ditto* .	73[1]	*Dues under Part V of this Act* (Village Channels)	D
Ditto	Ditto .	85[1]	Arrears of water rate, sums due to the Government on account of collections of water rate and sums due to any person on account of water rate	Do
Ditto	Ditto	95[1]	Cost of removal of obstruction or repair of damage	D
Ben Act 7 of 1876	The Land Registration Act 1876	82[1]	Amounts due to the Collector under this Act	D
Act 1 of 1878	The Opium Act, 1878	23 24 25	Dues under this Act	General Acts 1868-78 Ed 1909 pp 566-7

[1] See the Bengal Public Demands Recovery Act, 1913 (Ben Act 3 of 1913) sec 1 ante p 809

APPENDIX—*contd*

List of dues which are recoverable in Bengal under the certificate procedure provided by the Bengal Public Demands Recovery Act, 1913 (Ben Act 3 of 1913)—contd

1	2	3	4	5
Number and year	Short title	Section	Nature of due	Enactment where published
Act 7 of 1878	The Indian Forest Act, 1878	81[1]	Money payable to the Government under this Act or rules made thereunder the price of forest produce and expenses incurred under the Act	General Acts 1868 78, Ed 1909, p 603
Act 6 of 1879	The Elephants Preservation Act 1879	10[1]	Fees payable under licenses granted under this Act	General Acts, 1879 86, Ed 1903, p 10
Ben Act 9 of 1879	The Court of Wards Act 1879	23A[1]	Arrears of Government revenue which accrued while an estate or a share or part of an estate was under the charge of the Court of Wards.	Vol II.
Ditto	Ditto .	29[1]	Expenses incurred by Collector in preservation of property	Do
Ditto ...	The Court of Wards Act, 1879, as amended by Ben Act 1 of 1906	34A[1]	Expenses incurred under section 31, 32 or 33 of the Court of Wards Act, 1879	Do
Ditto ..	The Court of Wards Act, 1879	46[1]	Sums due to Court of Wards	Do
Ditto	Ditto ..	65A[1]	Expenses incurred by Court of Wards after release of property	Do
Ben Act 6 of 1880	The Bengal Drainage Act, 1880	38[1]	Sums due by landholders under the Act	Do
Ditto ..	Ditto ..	48 51B, 51C [1]	Sums due by co sharers, tenants and others under the Act.	Do

[1] *See* the Bengal Public Demands Recovery Act, 1913 (Ben Act 3 of 1913), Sch I, *ante*, p 809

APPENDIX—*contd*

List of dues which are recoverable in Bengal under the certificate procedure provided by the Bengal Public Demands Recovery Act, 1913 (Ben Act 3 of 1913)—contd

1	2	3	4	5
Number and year	Short title	Section	Nature of due	Enactment where published
Ben Act 9 of 1880	The Cess Act, 1880	40A[1]	Road cess or Public Works cess on tenures in Government estates	Vol II
Ditto	Ditto	49	Road cess or Public Works cess paid by shareholder in excess of his share	Do
Ditto	Ditto	98[1]	Amounts due to Collector under the Act	Do
Ben Act 2 of 1882	The Bengal Embankment Act 1882	70[1]	Sums due under this Act	Do
Act 19 of 1883	The Land Improvement Loans Act 1883	7[1]	Loans made under this Act	General Acts, 1879 80 Ed 1909 p 455
Act 12 of 1884	The Agriculturists Loans Act 1884	5[1]	Ditto ditto	Ditto p 512
Ben Act 1 of 1885	The Bengal Ferries Act, 1885	12[1]	Sums due by lessee of tolls of public ferry	Vol II
Act 8 of 1885	The Bengal Tenancy Act 1885	114[1]	Expenses of proceedings under Chapter X of the Act (record of rights and Settlement of Rents)	Vol I
Ditto	The Bengal Tenancy Act, 1885 as amended by Ben. Act 1 of 1907 and E B & A Act 1 of 1908	58[1]	Recovery of fines and compensations	Do
Ditto	Ditto	158A[1]	Recovery of arrears of rent under the certificate procedure	Do

[1] See the Bengal Public Demands Recovery Act 1913 (Ben Act 3 of 1913) sch I [illegible]

APPENDIX—*contd*

List of dues which are recoverable in Bengal under the certificate procedure provided by the Bengal Public Demands Recovery Act 1913 (Ben Act 3 of 1913)—contd

1	2	3	4	5
Number and year	Short title	Section	Nature of due	Enactment where published
Act 2 of 1886	The Indian Income tax Act 1886	30 (*1*)[1]	Sums payable in case of default	General Acts 1879 86 Ed 1909, p 553
Ben Act 3 of 1895	The Land Records Maintenance Act 1895	30 31 32[1]	Expenses of proceedings under Chapter X of the Bengal Tenancy Act 1885 (Record of rights and Settlement of Rents)	*Ante* p 67
Ben Act 8 of 1895	The Bengal Sanitary Drainage Act 1895	24[1]	Arrears of rates due under this Act	*Ante*, p 87
Ben Act 5 of 1897	The Estates Partition Act 1897	108[1]	Sums ordered under this Act to be paid	*Ante* p 115
Act 2 of 1899	The Indian Stamp Act 1899	48[1]	Dues and penalties in respect of instruments not duly stamped	General Acts, 1898 1903 Ed 1909 p 307
Ditto	Ditto	,,	Amount payable on composition of offence punishable under this Act	Ditto
Ben Act 2 of 1902	The Bengal Drainage (Amendment) Act, 1902	11[1]	Claims in respect of the drainage schemes of Howrah and Rajapur	*Ante*, p 529
Ben Act 5 of 1909	The Bengal Excise Act 1909	89[1]	All excise revenue any loss that may accrue when taking action under s 45 and all amounts due on account of contract	*Ante* p 625
Act 2 of 1912	The Co operative Societies Act, 1912	44	Sums due to Government under this Act	General Acts, 1909 13, Vol VII, p 217
Ben Act 2 of 1912	The Bengal Mining Settlements Act 1912	10[1]	Expenses incurred for the purposes of the Act	*Ante*, p 769

[1] See the Bengal Public Demands Recovery Act 1913 (Ben Act 3 of 1913) Sch I, *ante*, p 809

of 1913.]

APPENDIX—*concld*

List of dues which are recoverable in Bengal under the certificate procedure provided by the Bengal Public Demands Recovery Act 1913 (Ben Act 3 of 1913)—concld

1	2	3	4	5
Number and year	Short title	Section	Nature of due	Enactment where published
Ben Act 5 of 1914	The Chittagong Port Act, 1914	113[1]	All fees and sums due on account of property vested in Commissioners and all arrears of tolls, dues rates and charges	*Post* p 879
.. ..	......	...	[1] Balance of arrears of revenue, after sale of estate or tenure	.
.....	....	..	[1] Arrears of revenue due from a farmer	
.. ..	......	.	[1] Money due from the sureties of a farmer in respect of the revenue of the estate farmed by him	
.. ..	.. ..	.	[1] Fees or costs awarded by a Revenue authority under any law or any rule having the force of law	
......	......	...	[1] Arrears of revenue or rent payable to the Secretary of State for India in Council	.
... ..	.....	..	[1] Arrears of rent, or of other demands recoverable as rent, due in respect of property under the charge of or managed by the Court of Wards or the Revenue authorities on behalf of a private individual	..
.. ..	.. ...	..	[1] Sums payable to a Government Officer or any Local Authority in respect of which the person liable to pay the same has agreed that they shall be recoverable under the certificate procedure	.

[1] *See* the Bengal Public Demands Recovery Act, 1913 (Ben Act 3 of 1913), Sch I, *ante*, p 809

BENGAL ACT I OF 1913

[THE BENGAL PUBLIC GAMBLING (AMENDMENT) ACT, 1913] [1]

(*The 11th May, 1913*)

An Act further to amend the law in force in Bengal relating to public gambling.

Whereas it is expedient further to amend the law in force in Bengal relating to public gambling;

And whereas the sanction of the Governor General has been obtained, under section 5[2] of the Indian Councils Act, 1892, to the passing of this Act;

It is hereby enacted as follows:—

Short title

1. This Act may be called the Bengal Public Gambling (Amendment) Act, 1913.

Amendment of definitions as to gaming

2. For the definitions of "common gaming-house," "gaming" and "instruments of gaming," in section 59 of the Howrah Offences Act, 1857[3], section 3 of the Calcutta Police Act, 1866[4], and section 1 of the Bengal Public Gambling Act, 1867[4], the following shall be substituted, namely:—

"'gaming' includes wagering or betting [except wagering or betting upon a horse-race, when such wagering or betting takes place—

(*a*) *on the day on which such race is to be run*, and

(*b*) in an enclosure which the Stewards controlling such race have, with the sanction of the Local Government, set apart for the purpose],

but does not include a lottery;

'instruments of gaming' includes any article used as a means or appurtenance of, or for the purpose of carrying on or facilitating, gaming; and

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...utta *Gazette*, 1913, ... for Proceedings in ...

...s Act is the same as ...

...ne Chittagong Hill ...

[4] Printed in Vol II of this Code

'common gaming-house' means any house, room, tent, or walled enclosure, or space, or vehicle, or any place whatsoever, in which any instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room, tent, enclosure, space, vehicle or place, whether by way of charge for the use of such house, room, tent, enclosure, space, vehicle, place or instruments or otherwise howsoever "[1].

New sections 15A for Act 21 of 1857 50A for Ben Act 4 of 1866 and 11A for Ben Act 2 of 1867

3. (*1*) After section 15 of the Howrah Offences Act, 1857[2], the following shall be inserted, namely — 21 of 1857

Exemption of games of mere skill

"15A. Nothing in sections 10 to 15 shall apply to any game of mere skill, wherever played "[3]

(*2*) After section 50 of the Calcutta Police Act, 1866[4], the following shall be inserted, namely — Ben Act 4 of 1866

50A [Printed as part of Ben Act 4 of 1866 in Vol II of this Code]

(*3*) After section 11 of the Bengal Public Gambling Act, 1867[4], the following shall be inserted, namely — Ben Act 2 of 1867

11A [Printed as part of Ben Act 2 of 1867 in Vol II of this Code]

Amendment of section 11 of Bengal Act 2 of 1867

4. For the words "playing for money or other valuable thing with cards, dice, counters, or other instruments of gaming used in playing any game not being a game, of mere skill," in section 11 of the Bengal Public Gambling Act, 1867[4], the word "gaming" shall be substituted Ben Act 2 of 1867

Repeal

5. The following enactments are hereby repealed, namely —

(*1*) the definition of 'common gaming-house" in section 51 of the Calcutta Suburban Police Act, 1866[4], Ben Act 2 of 1866

(*2*) the words "three successive numbers of", in section 2 of the Bengal Public Gambling Act, 1867[4], Ben Act 2 of 1867

(*3*) section 10 of the Bengal Public Gambling Act, 1867[4], and Ben Act 2 of 1867

(*4*) the Bengal Rain-gambling Act, 1897 Ben Act 3 of 1897

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[1] This amendment is shown *in loco* in Ben Acts 4 of 1866 and 2 of 1867, printed in Vol II, but not in Act 21 of 1857 which is printed in Vol I of this Code

[2] Printed in Vol I of this Code

[3] This new section is not shown *in loco* in Act 21 of 1857 which is printed in Vol I of this Code

[4] Printed in Vol II of this Code

BENGAL ACT I OF 1914

(THE BENGAL LAWS ACT, 1914)

CONTENTS.

BENGAL ACT I OF 1914

(THE BENGAL LAWS ACT, 1914)[1]

(The 14th January, 1914)

An Act to assimilate certain enactments in force in Eastern and Western Bengal, to amend certain enactments, and to repeal certain other enactments.

Whereas it is expedient to extend certain enactments of the Bengal Legislative Council to Eastern Bengal, and to extend certain enactments of the Eastern Bengal and Assam Legislative Council to Western Bengal,

And whereas it is also expedient that certain formal amendments should be made in enactments in force in Bengal,

And whereas it is also expedient that certain enactments in force in Bengal should be repealed,

And whereas the previous sanction of the Governor General has been obtained, under section 5[2] of the Indian Councils Act, 1892, to the passing of this Act, Vict,

It is hereby enacted as follows —

1. This Act may be called the Bengal Laws Act, 1914 Short title

2. In this Act,— Definitions

(1) "Eastern Bengal" means the territory mentioned in Part I of Schedule A to the Bengal, Bihar and Orissa and Assam Laws Act, 1912[3], and 2

(2) "Western Bengal" means the territory mentioned in Part II of that Schedule

3. The enactments specified in Schedule I are hereby extended to Eastern Bengal, to the extent mentioned in column 1 thereof Extension of enactments to Eastern Bengal

4. The enactments specified in Schedule II are hereby extended to Western Bengal, to the extent mentioned in column 1 thereof Extension of enactments to Western Bengal

Provided that the Eastern Bengal and Assam Disorderly Houses Act, 1907[4], shall not apply to any municipality, A 1907

...azette, 1913
Proceedings
...end to the
Hill tracts

[3] Printed in Vol I of this Code
[4] Printed post p 947

constituted under the Bengal Municipal Act, 1884[1], in which the Calcutta Suburban Police Act, 1866[1], is in force

Amendment of enactments

5. The enactments specified in Schedule III are hereby amended to the extent and in the manner mentioned in column 4 thereof

Repeal of enactments

6. The enactments specified in Schedule IV are hereby repealed to the extent mentioned in column 4 thereof

Continuance of orders etc issued under certain repealed enactments

7. Every appointment, order, rule, notification or form made or issued under—

(*a*) the Land Registration Act, 1876[1], as amended by the Bengal Land Registration (Amendment) Act 1906,[2]

(*b*) the Bengal Military Police Act 1892[3], or

(*c*) the Bengal Disorderly Houses Act, 1906[4],

shall, so far as it is not inconsistent with—

(*i*) the Land Registration Act, 1876[1], as amended by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907[5],

(*ii*) the Eastern Bengal and Assam Military Police Act, 1912[6], or

(*iii*) the Eastern Bengal and Assam Disorderly Houses Act, 1907[7],

as the case may be, continue in force, and be deemed to have been made or issued under that Act, unless and until it is superseded by any appointment, order, rule, notification or form made or issued under that Act

(*Schedules I, II.*)

SCHEDULE I.

ENACTMENTS EXTENDED TO EASTERN BENGAL.

(*See section 3.*)

Year	Number	Short title	How far extended
1	2	3	4
		Bengal Acts	
1899	1	The Bengal General Clauses Act 1899	The whole Act as applying to— (*1*) the other Acts specified in this Schedule, and (*2*) any Bengal Act passed after the first day of April, 1912
1908	5	The Bengal Local Self Government (Amendment) Act, 1908	The whole Act
1909	2	The Bengal Court of Wards (Amendment) Act, 1909	The whole Act
1910	2	The Bengal Municipal (Amendment and Validation) Act 1910	Sections 1 and 2
1911	2	The Bengal Vaccination (Amendment) Act 1911	The whole Act
1911	5	The Calcutta Improvement Act, 1911	Section 82 and section 86 in so far as it affects section 82

SCHEDULE II

ENACTMENTS EXTENDED TO WESTERN BENGAL

(*See section 4.*)

Year	Number	Short title	How far extended
1	2	3	4
		Eastern Bengal and Assam Acts	
1907	1	The Eastern Bengal and Assam Land Registration (Amendment) Act, 1907	The whole Act

(*Schedules II, III.*)

SCHEDULE II.—*concld.*

ENACTMENTS EXTENDED TO WESTERN BENGAL.—*concld.*

(*See section 4.*)

Year	Number	Short title	How far extended
1	2	3	4
		Eastern Bengal and Assam Acts	
1907	2	The Eastern Bengal and Assam Disorderly Houses Act, 1907	The whole Act
1909	1	The Eastern Bengal and Assam General Clauses Act, 1909.	The whole Act, as applying to the other Acts specified in this Schedule
1912	3	The Eastern Bengal and Assam Military Police Act, 1912	The whole Act.

SCHEDULE III

ENACTMENTS AMENDED.

(*See section 5.*)

Year	Number	Short title	Amendments
1	2	3	4
		Bengal Acts	
1866	3	The Bengal Legislative Council (Witnesses) Act, 1866	*For the words* Lieutenant Governor of Bengal *and the words* Lieutenant-Governor, *wherever they occur substitute the words* the Governor of Fort William in Bengal.
1876	7	The Land Registration Act, 1876	In section 31, *for the words* the said section, *where they first occur, substitute* section 30
1879	9	The Bengal Court of Wards Act, 1879.	*For* clause (*a*) of section 64A (which was inserted for Western Bengal by Bengal Act I of 1906, section 10, and for Eastern Bengal by E B and A. Act III of 1907, section 12 *substitute* (*a*) in the Calcutta Gazette

SCHEDULE III—*concld.*

ENACTMENTS AMENDED—*concld.*

(*See section 5.*)

Year.	Number	Short title	Amendments
1	2	3	4
		Bengal Acts—concld	
1885	3	The Bengal Local Self Government Act of 1885	(i) *After* section 29A *insert* the following [1]— 29B Notwithstanding anything contained in any of the foregoing provisions of this Chapter, every appointment to any District or Local Board as the case may be made thereunder by the Commissioner shall be subject to the administrative control of the Local Government Power to Local Government to control appointments made by Commissioner under preceding sections of this Chapter (ii) *To* section 64A *add* the following [1]— or (e) establish scholarships for the furtherance of technical or any other special form of education Provided that save with the sanction of the Local Government no such scholarship shall be tenable at any school or institution not situated within the area under the authority of the District Board (i (
1899	1	The Bengal General Clauses Act 1899	*To* clause (6) of section 3 *add* or the Indian Councils Acts 1861, 1892 and 1909, or made by the Governor in Council of Fort William in Bengal under the Indian Councils Acts 1861, 1892 and 1909
		Eastern Bengal and Assam Act	
1907	1	The Eastern Bengal and Assam Land Registration (Amendment) Act, 1907	In section 6 *before* alphabetical *insert* the.

[1] The amendments to Ben. Act 3 of 1885 made by this Act are not of a kind usually effected by means of a Laws Act, but the special circumstances in which it was decided to include these amendments in Ben Act 1 of 1914 were explained in Council, *see* Calcutta Gazette, 1913, Pt IVA, p 779

(*Schedule IV*)

SCHEDULE IV

ENACTMENTS REPEALED

(*See section 6*)

Year	Number	Short title	Extent of repeal
1	2	3	4
		Bengal Regulation	
1817	20	The Bengal Police Regulation 1817	So much as has not been repealed
		Acts of the Governor General of India in Council	
1856	22	The Karatoya Tolls Act 1856	The whole Act.
1892	4	The Court of Wards Act (Bengal) Amendment Act, 1892	Sections 5 and 11
1892	5	The Bengal Military Police Act 1892	The whole Act
		Bengal Acts	
1862	8	The Bengal Zumindari Dak Act 1862	The whole Act so far as it applies to Eastern Bengal
1876	7	The Land Registration Act, 1876	In section 31 *the words* by clause (c) of the last preceding section to give notice to the Collector of the establishment of any new village, or
1885	3	The Bengal Local Self Government Act of 1885	(i) In the proviso to section 9 *the letter and words* (*b*) paid licence tax in respect of a trade, dealing or industry carried on within such area (ii) In the proviso to section 13 *the letter and words* (*b*) paid a licence tax of not or less than twenty rupees in respect of a trade dealing or industry carried on within the area under the authority of such Local Board (iii) In section 117 (3) *the words and figures* or, where the Chota Nagpur Rural Police Act, 1887, is in force under that Act (iv) In section 118 C (3) – (*a*) *the words and figures* or where the Chota Nagpur Rural Police Act 1887, is in force, the provisions of sections 9 10 13 15 to 18, 20 21, 34 and 36 of that Act *and* (*b*) clause (c) of the proviso

(*Schedule IV*)

SCHEDULE IV—*concld*

ENACTMENTS REPEALED—*concld*

(*See section 6*)

Year	Number	Short title	Extent of repeal
1	2	3	4
		Bengal Acts—concld	
1904	3	The Bengal Settled Estates Act 1904	In section 36 *the ords* and also in such vernacular gazettes (if any) as the Local Government may direct
1906	2	The Bengal Land R s tration (Amendment) Act 1906	The whole Act
1906	3	The Bengal Disorderly Houses Act 1906	The whole Act
1909	1	The Indian Lunatic Asylums (Amendment) Act 1909	The whole Act
		Eastern Bengal and Assam Acts	
1907	1	1907	*the rd* Bengal
1911	1	The Eastern Bengal and Assam Court of Wards (Amendment) Act 1911	The whole Act

BENGAL ACT 2 OF 1914

[THE BENGAL MUNICIPAL (SANITARY OFFICERS) ACT, 1914] [1]

(The 18th February, 1914)

An Act to provide for the appointment of Sanitary Officers for certain Municipalities outside Calcutta.

Whereas it is expedient further to amend the Bengal Municipal Act, 1884[2], in order to provide for the appointment of Sanitary Officers in certain Municipalities,

It is hereby enacted as follows —

1. This Act may be called the Bengal Municipal (Sanitary Officers) Act, 1914. Short title

2. After Part XI A of the Bengal Municipal Act, 1884[3] the following shall be inserted, namely — Insertion of Part XIB in Bengal Act 3 of 1884

Part XIB—sections 349 C to 349 H [Printed as part of Bengal Act 3 of 1884 in Vol II of this Code]

Gazette 1913, ... ings in Council

... in which the ... force

BENGAL ACT 3 OF 1914

(THE DOVETON TRUST ACT, 1914)[1]

(The 18th February, 1914)

An Act to abolish the Parental Academic Institution and Doveton College and Doveton Institution for Young Ladies, and to provide for the application of the property and funds thereof as nearly as possible in accordance with the intentions of the founders.

Whereas, on the first day of March 1823, an Educational Society was established in Calcutta, under the designation of "The Parental Academic Institution", with the object of establishing one or more schools under its own control in order to procure the means of affording to youth the best education of which existing circumstances would admit, and, as far as the state of funds would allow, to provide education for the orphans of members dying not possessed of property sufficient to educate their children;

And whereas the designation of the said Society was changed in the year 1855 to that of "The Parental Academic Institution and Doveton College";

And whereas the said Society was registered as a Society under the Societies Registration Act, 1860[2], on the twenty-ninth day of August, 1881;

And whereas the designation of the said Society was again changed in the year 1886, on the incorporation therewith of "The Young Ladies' Institution," to that of "The Parental Academic Institution and Doveton College and Doveton Institution for Young Ladies";

And whereas various properties and funds have from time to time been vested in the Governing Body of the said Society, and in other persons, for the benefit of, or in trust for, the said Institution or pupils to be educated therein;

And whereas the said Institution is now governed by certain persons claiming to be a Committee duly elected or appointed under an order made by the High Court, Calcutta, on the eighth day of April, 1907;

And whereas it appears to the Governor in Council that the said Committee are unable satisfactorily to manage the said Institution according to the intentions of its founders, and that

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[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons *see* Calcutta Gazette 1913, p. 1[illegible], for Report of Select Committee *see ibid* p. 918; for Proceedings in Council *see ibid* Pt. IV A, pp. 730 to 733, 791 to 791, *ibid* 1914 Pt. IV A, p. 31.

[2] Printed in the General Acts, 1834-67, Ed. [illegible] p. 217.

(*Secs 1-5*)

portions of the property and funds of the Institution have been wasted away in litigation and by mismanagement, and that it is expedient that the Legislature should intervene in order to prevent further waste and mismanagement,

And whereas it appears to the Governor in Council that the objects of the founders of the said Institution would best be met by providing for the application of its property and funds, under the direction of the Government, to the education of Christian children of what is known as the Domiciled Community of Bengal,

And whereas the sanction of the Governor General has been obtained, under section 5[1] of the Indian Councils Act, 1892, to the passing of this Act, (5 & 56 V c 14)

It is hereby enacted as follows —

Short title

1. This Act may be called the Doveton Trust Act, 1914

Abolition of the Doveton Institution

2. The "Parental Academic Institution and Doveton College and Doveton Institution for Young Ladies" is hereby abolished

Vesting and application of trust property and funds

3. All property, movable and immovable, which is vested in the Managing Committee of the said Institution, or in any other person, for the benefit of the said Institution or anywise in trust therefor, and all sums standing to the credit of the said Institution, shall vest in the Accountant-General, Bengal, as bare trustee, and shall be applied—

(*a*) to the discharge of all debts and liabilities properly payable out of, or chargeable upon, the property or funds of the said Institution, and

(*b*) to making provision for the education of Christian children of what is known as the Domiciled Community of Bengal, by the granting of scholarships, by grants in-aid to Institutions intended for the education of such children, or in such other similar manner as to the Local Government may seem reasonable and proper.

Appointment of administrator, and transfer of powers to him.

4. The Local Government shall, by notification[2] in the Calcutta Gazette, appoint an officer of the Government (not being the Accountant-General, Bengal) by the name of his office to administer the property and sums referred to in section 3, and all powers in respect of such property and sums, which have hitherto been exercisable by the said Managing Committee or by any other person, may henceforth be exercised by such officer subject to the control of the Local Government

Power to make rules

5. (*1*) The Local Government may make rules to carry out the purposes of this Act.

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[1] Printed in the Collection of Statutes relating to India 1913 Vol II, p 804

[2] For a notification issued under s 4 *see* Calcutta Gazette, 1915, Pt I, p 242

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the method of applying property and funds held under this Act to the purpose specified in clause (b) of section 3,

(b) the securities in which funds held under this Act and not required for immediate disbursement shall be invested,

(c) the accounts to be kept by the Accountant General, Bengal, and by the officer appointed under section 4, and the mode in which such accounts are to be audited,

(d) the periodical publication of a list of all property and funds held under this Act and of an abstract of all accounts kept hereunder,

(e) the fees (if any) to be paid to the Government in respect of property held and administered under this Act

(3) The power conferred by this section to make rules is subject to the condition of the rules being made after previous publication [1]

(4) All rules made under this section shall be published in the Calcutta Gazette, and on such publication shall have effect as if enacted in this Act

6. (1) No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or in respect of any alleged neglect or omission to perform any duty devolving on the Government under this Act, or in respect of the exercise of, or the failure to exercise, any power conferred by this Act on the Government Indemnity

(2) No suit shall be instituted against the Accountant-General, Bengal, or any officer appointed under section 4, except—

(a) for divesting him of property on the ground of its not being subject to this Act, or

(b) for making him chargeable with or accountable for the loss or misapplication of any property vested in or managed by him under this Act, or the income thereof, where the loss or misapplication has been occasioned by or through his wilful act, negelect or default

[1] As to previous publication see the Bengal General Clauses Act 1899 (Ben Act 1 of 1899), s 24, printed ante, p 182

(*Secs* 1-5.)

portions of the property and funds of the Institution have been wasted away in litigation and by mismanagement, and that it is expedient that the Legislature should intervene in order to prevent further waste and mismanagement,

And whereas it appears to the Governor in Council that the objects of the founders of the said Institution would best be met by providing for the application of its property and funds, under the direction of the Government, to the education of Christian children of what is known as the Domiciled Community of Bengal,

And whereas the sanction of the Governor General has been obtained, under section 5[1] of the Indian Councils Act, 1892, to the passing of this Act, 5 & 56 c 14

It is hereby enacted as follows —

Short title

1. This Act may be called the Doveton Trust Act, 1914

Abolition of the Doveton Institution

2. The "Parental Academic Institution and Doveton College and Doveton Institution for Young Ladies" is hereby abolished

Vesting and application of trust property and funds

3. All property, movable and immovable, which is vested in the Managing Committee of the said Institution, or in any other person, for the benefit of the said Institution or anywise in trust therefor, and all sums standing to the credit of the said Institution, shall vest in the Accountant-General, Bengal, as bare trustee, and shall be applied—

(*a*) to the discharge of all debts and liabilities properly payable out of, or chargeable upon, the property or funds of the said Institution, and

(*b*) to making provision for the education of Christian children of what is known as the Domiciled Community of Bengal, by the granting of scholarships, by grants-in-aid to Institutions intended for the education of such children, or in such other similar manner as to the Local Government may seem reasonable and proper.

Appointment of administrator, and transfer of powers to him

4. The Local Government shall, by notification[2] in the Calcutta Gazette, appoint an officer of the Government (not being the Accountant-General, Bengal) by the name of his office to administer the property and sums referred to in section 3, and all powers in respect of such property and sums, which have hitherto been exercisable by the said Managing Committee or by any other person, may henceforth be exercised by such officer subject to the control of the Local Government

Power to make rules

5. (*1*) The Local Government may make rules to carry out the purposes of this Act

[1] Printed in the Collection of Statutes relating to India 1913 Vol II, p 804

[2] For a notification issued under s 4 *see* Calcutta Gazette 1915, Pt I, p 242

BENGAL ACT I OF 1914

(THE CALCUTTA MUNICIPAL (LOANS) ACT, 1914)[1]

(The 11th March 1914)

An Act to amend the provisions of the Calcutta Municipal Act, 1899, relating to Loans.

Whereas it is expedient to amend the provisions of the Calcutta Municipal Act, 1899[2], relating to Loans,

And whereas the sanction of the Governor General has been obtained, under section 5[3] of the Indian Councils Act 1892, to the passing of this Act,

It is hereby enacted as follows —

1. This Act may be called the Calcutta Municipal (Loans) Act, 1914 — *Short title*

2. For Chapter X of the Calcutta Municipal Act, 1899[2], the following shall be substituted, namely — *New Chapter X for Ben Act 3 of 1899*

Chapter X, sections 128 to 141H [Printed *ante*, p 267]

3. Schedule VI to the Calcutta Municipal Act, 1899[2], is hereby repealed — *Repeal of Schedule VI to Ben Act 3 of 1899*

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[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons *see* Calcutta Gazette 1913 Pt IV pp 58 to 60 for Report of Select Committee *see ibid* Pt IV pp 113 to 115 for Proceedings in Council—*see ibid* Pt IV A pp 38 to 40 [illegible] *ibid* 1914 Pt IVA pp 56 to 66 118 to 136 139 to 146

LOCAL EXTENT—*This Act has the same local extent as Ben Act 3 of 1899 printed ante p 211*

[2] Printed *ante* p 213

[3] Printed in the Collection of Statutes relating to India 1913 Vol II p 804

BENGAL ACT I OF 1914

(THE CALCUTTA MUNICIPAL (LOANS) ACT, 1914)[1]

(The 11th March, 1914)

3 of **An Act to amend the provisions of the Calcutta Municipal Act, 1899, relating to Loans.**

Whereas it is expedient to amend the provisions of the Calcutta Municipal Act, 1899[2], relating to Loans,

And whereas the sanction of the Governor General has been obtained, under section 5[3] of the Indian Councils Act,
ict, 1892, to the passing of this Act,

It is hereby enacted as follows —

1. This Act may be called the Calcutta Municipal (Loans) Act, 1914. Short title

3 of **2.** For Chapter X of the Calcutta Municipal Act, 1899[2], the following shall be substituted, namely — [illegible]

3 of Chapter X, sections 128 to 141H [Printed *ante*, p 267.]

3. Schedule VI to the Calcutta Municipal Act, 1899[2], is hereby repealed. Repeal of [illegible] VI [illegible]

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[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons *see* Calcutta Gazette 1914 Pt IV pp 58 to 60 for Report of Select Committee *see ibid* Pt IV pp 113 to 11[illegible] for Proceedings in Council—*see ibid* Pt IV A, pp 38 to 40 [illegible] 1914 Pt IVA pp [illegible] to 66 [illegible] 140

LOCAL EXTENT—This Act has the same local extent as Ben Act 3 of 1899 printed *ante* p 21[illegible]

[2] Printed *ante* p 21[illegible]

[3] Printed in the Collection of Statutes relating to India 1913 Vol II p 801

BENGAL ACT 5 OF 1914

(THE CHITTAGONG PORT ACT, 1914)

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BENGAL ACT 5 OF 1914

(THE CHITTAGONG PORT ACT, 1914)[1]

(The 13th May, 1914)

An Act to consolidate and amend the law relating to the Port of Chittagong.

Whereas it is expedient to consolidate and amend the law relating to the Port of Chittagong, — Preamble

And whereas the sanction of the Governor General has been obtained, under section 5[2] of the Indian Councils Act, 1892, to the passing of this Act,

It is hereby enacted as follows —

CHAPTER I

PRELIMINARY.

Short title and commencement

1. *(1)* This Act may be called "The Chittagong Port Act, 1914", and

(2) It shall come into force on such date[3] as the Local Government may by notification direct

Repeals

2. The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Commissioners the successors to Commissioners constituted under Ben Act 4 of 1887

3. All debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Commissioners of the Port of Chittagong constituted under "The Chittagong Port Commissioners Act, 1887"[4] shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Commissioners constituted under this Act,

and all rates and sums of money due to the Commissioners, constituted under "The Chittagong Port Commissioners Act, 1887"[4], shall be deemed to be due to the Commissioners constituted under this Act;

and all suits and other legal proceedings, civil or criminal, instituted or which might but for the passing of this Act have

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Marine, dated the 23rd

1213

[4] Ben Act 4 of 1887 is repealed by this Act, see Sch I, post, p 915

been instituted by or against the Commissioners constituted under "The Chittagong Port Commissioners Act, 1887"[1], may be continued or instituted by or against the Commissioners constituted by this Act.

Definitions.

4. In this Act, unless there is anything repugnant in the subject or context,—

"The Commissioners."
(1) "the Commissioners" shall mean the Commissioners for the Port of Chittagong hereinafter incorporated;

"Commissioner."
(2) "Commissioner" shall mean a member of the said Corporation;

"Dock."
(3) "dock" shall include all basins, cuts, quays, wharves, warehouses, tramways and other works and things appertaining to any dock;

"Goods."
(4) "goods" shall include wares and merchandise of every description;

"High-water mark."
(5) "high-water mark" shall mean a line drawn through the highest points reached by ordinary spring-tides at any season of the year;

"Land."
(6) "land" shall include the bed of the river below high-water mark, and also things attached to the earth or permanently fastened to things attached to the earth;

"Low-water mark."
(7) "low-water mark" shall mean the lowest point reached at ordinary ebb spring-tides at any season of the year;

"Master."
(8) "master", when used in relation to any vessel, means any person not being a pilot or harbour-master having for the time being the command or charge of such vessel;

"Owner."
(9) "owner" shall include also any agent to whom a vessel is consigned;

"Pier."
(10) "pier" shall include any stage, stairs, landing-place, jetty, floating-barge or pontoon and any bridges or other works connected therewith;

"Pilot."
(11) "pilot" shall mean a person for the time being authorized by the Local Government under section 3[2] of the Indian Ports Act, 1908, to pilot vessels to, from, or within, the port;

"Port."
(12) "port" shall mean the Port of Chittagong as for the time being defined for the purposes of this Act;

"Vessel."
(13) "vessel" shall include any ship, barge, boat, raft or craft, or any other thing whatever, designed or used for the transport upon water of passengers or goods;

"Wharf."
(14) "wharf" shall include any bank of the river which may be improved to facilitate the loading or unloading of goods, and any foreshore used for the same,

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[1] Ben. Act 4 of 1887 is repealed by this Act, see Sch. I, post, p. 915.
[2] Printed in the General Acts, 1904-05, Ed. 1905, p. 513.

and any wall enclosing or adjoining such bank or foreshore.

5. (*1*) The Local Government may, by notification, define the limits of the port for the purposes of this Act, and may from time to time, by a like notification, alter such limits. Power to Local Government to alter and define limits of Port.

(*2*) Such limits may extend to any part of the navigable approaches to Chittagong, and may include any docks, wharves, quays, stages, jetties, piers, tramways, warehouses, sheds and other works made on behalf of the public for the convenience of traffic, for the safety of vessels or for the improvement, maintenance and good government of the port or river, whether within or without high-water mark, and (subject to any right of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

CHAPTER II

CONSTITUTION OF THE COMMISSIONERS

6. (*1*) The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a body of Commissioners to be called "the Commissioners for the Port of Chittagong". Commissioners a body corporate.

(*2*) Such body shall be a body corporate and have perpetual succession and a common seal, and may sue and be sued in its corporate name, and, in addition to the powers expressly conferred by this Act, shall have power, subject to the provisions of this Act, to do all other things necessary for the purposes of its constitution.

7. There shall be nine Commissioners, that is to say,— Number of Commissioners.

(*a*) the Chairman,

(*b*) the Vice-Chairman,

(*c*) the Agent of the Assam Bengal Railway for the time being,

(*d*) three elected Commissioners, and

(*e*) three nominated Commissioners:

Provided that not more than four of the nine Commissioners shall be persons holding salaried offices under Government.

8. (*1*) Of the elected Commissioners, two shall be elected by the Chamber of Commerce at Chittagong and one by the Chittagong Indian Merchants' Association or by such other body or bodies or firms as the Local Government shall from time to time select as best representing the local Indian community. Election of Commissioners.

(2) The elections shall be made in such manner as may be determined by the electing bodies, subject to the approval of the Local Government

Nomination by Government in default of election

9. In the event of default being made by the electing body, bodies or firms referred to in section 8 in electing any Commissioner within the period prescribed by section 14, it shall be lawful for the Local Government to appoint a person; and the person so appointed shall be deemed to be a Commissioner as if he had been elected by such body, bodies or firms.

Appointment of nominated Commissioners by Local Government

10. The nominated Commissioners, the Chairman, and the Vice-Chairman shall be appointed by the Local Government

Tenure of office

11. (1) If a Commissioner be appointed as such by virtue of office, the person for the time being holding the office shall be a Commissioner until the Local Government shall otherwise direct

(2) The Chairman and the Vice-Chairman shall continue to hold office until the Local Government shall otherwise direct

(3) Commissioners appointed by name or elected shall, subject to the provisions hereinafter in this Chapter contained, hold office for a term of two years and may, on the expiration of such term, be re-appointed or re-elected, but the Local Government may at any time accept the resignation of any such Commissioner

(4) Notwithstanding the expiration of the term of two years mentioned in sub-section (3), a Commissioner appointed by name or elected shall continue to hold office until the vacancy caused by the expiration of the said term has been filled up as provided in section 14

Disqualification for office

12. No person shall be qualified to be a Commissioner during such time as he—

(a) is an undischarged insolvent, or

(b) holds any office or place of profit under this Act, except the office of Chairman or Vice-Chairman, or,

(c) save with the sanction of the Local Government, has, directly or indirectly, any share or interest in any work done by order of the Commissioners, or in any contract, or employment with, by, or on behalf of the Commissioners, or

(d) is under sentence of imprisonment,

and every Commissioner becoming so disqualified shall thenceforth cease to be a Commissioner and his office shall thereupon become vacant

Provided always that no Commissioner shall vacate his office by reason only of—

(i) his being a shareholder in or a member or employe of any company (registered under the provisions of any Act for the registration of joint-stock companies

of 1914.]

(*Chapter II.—Constitution of the Commissioners — Secs 13-16.*)

passed by any Indian Legislature or by the Parliament of the United Kingdom, or incorporated by Act of Parliament, Royal Charter, or otherwise,) with which the Commissioners may enter into any contract, or

(*ii*) his being interested as a debenture-holder in any loan of money to the Commissioners, or

(*iii*) his being interested in any purchase or lease of land or premises, the sale or lease of which Commissioners may determine on at a meeting under the provisions of this Act, or

(*iv*) his being interested in any agreement under which facilities may be granted for the landing or shipment of goods in return for stipulated income guaranteed to the Commissioners in consideration of their undertaking to construct or provide such facilities, or

(*v*) his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Commissioners may be inserted

Absence from meetings

13. Every person who at any time after his election or appointment by name as a Commissioner shall be absent for more than three consecutive months from the meetings of the Commissioners without having previously obtained the permission in that behalf of the Commissioners or who shall with such permission be absent from the meetings for a period exceeding six months shall thenceforth cease to be a Commissioner and his office shall thereupon become vacant

Vacancies to be filled within one month

14. All vacancies in the number of Commissioners, whether elected or appointed under this Act, shall be filled up by election or appointment as the case may be within one month, unless the Local Government, for reasons to be recorded in writing, think fit to extend that period

Temporary leave vacancies

15. (*1*) A temporary vacancy caused by the absence on leave of any Commissioner for a period of not less than three months nor more than six months may if the Local Government think fit be filled up by election or appointment, as the case may be, in the manner hereinbefore in this Chapter provided

(*2*) A person elected or appointed under this section shall hold office until the expiry of the leave granted to the Commissioner whose place he fills

Casual vacancies

16. Save as provided in section 15, any vacancy in the office of a Commissioner occasioned during the period of two years mentioned in section 11, sub-section (*3*), by the death, *resignation, disqualification or absence of any Commissioner* shall be filled up as hereinbefore in this Chapter provided by

(Chapter II—Constitution of the Commissioners—Chapter III—Conduct of Business by the Commissioners—Sec 17-21.)

election or appointment, as the case may be, but the Commissioner so elected or appointed shall retain his office so long only as the vacating Commissioner would have retained it if such vacancy had not occurred.

Remuneration of Chairman and Vice-Chairman and Commissioners

17. It shall be lawful for the Local Government, by an order, from time to time to determine whether any, and what, salary and allowances shall be paid to the Chairman and Vice-Chairman, respectively, and whether any, and what, fees shall be paid to the Commissioners for attendance at meetings at which a quorum shall be present, and business shall be transacted

Leave of absence of the Chairman and Vice-Chairman

18. (*1*) The Local Government may grant leave of absence to the Chairman and Vice-Chairman, and may appoint persons to act for them during their absence on leave

(*2*) Any person appointed to act under sub-section (*1*) shall, while so acting be deemed for the purposes of this Act to be the Chairman or Vice-Chairman, as the case may be

(*3*) The Local Government may grant such leave-allowances to the Chairman and Vice-Chairman as they think fit

Notification in the Calcutta Gazette of elections and appointments

19. All elections and appointments made, and all resignations accepted under this Chapter, shall be notified in the Calcutta Gazette, and shall take effect from the date of such notification

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CHAPTER III

CONDUCT OF BUSINESS BY THE COMMISSIONERS

Power to Commissioners to appoint committees

20. (*1*) The Commissioners may from time to time, in accordance with a resolution passed at a meeting, appoint committees of their number for carrying into effect any part of the provisions of this Act, with such power and such instructions, directions or limitations as by such resolution shall be defined

(*2*) On any such committee three members shall be a quorum

(*3*) The Commissioners in meeting may alter or discontinue any such committee

Ordinary and special meetings

21. (*1*) The Commissioners shall ordinarily meet, for the transaction of business, at least once in every month

(*2*) The Chairman, or, in the event of his illness or absence from Chittagong, the Vice-Chairman may, whenever he thinks fit, and shall upon a requisition in writing signed by not less than three Commissioners, convene a meeting of the Commissioners for the transaction of any special business.

(3) Meetings convened under sub-section (2) are special meetings; all other meetings are ordinary meetings.

22. (1) At least three days' notice shall ordinarily be given of meetings of the Commissioners, and the notice shall state the nature of the business to be transacted. *Notice and place of meetings.*

(2) Notwithstanding anything contained in sub-section (1) when the Chairman or Vice-Chairman, as the case may be, certifies that the business to be transacted, at a special meeting is of an urgent nature, such meeting may be held after such notice as, in the opinion of the Chairman or Vice-Chairman, the urgency of the case permits.

(3) Meetings shall ordinarily be held at the office of the Commissioners.

23. (1) In the absence of the Agent of the Assam-Bengal Railway from Chittagong, an officer of the Railway, nominated by the Agent, may act on committees and may attend meetings in his stead, and, when so acting and attending, shall be deemed to be a Commissioner. *Representation of Agent Assam Bengal Railway, by other officer.*

(2) Before an officer so nominated proceeds to exercise any of the functions contemplated by sub-section (1), the fact of nomination shall be communicated by the Agent to the Chairman.

24. (1) The Chairman and Vice-Chairman shall, unless prevented by sickness or other reasonable cause, attend all meetings of the Commissioners. *President of meetings.*

(2) The Chairman, or, in his absence, the Vice-Chairman, shall preside at every such meeting.

(3) In the absence of both the Chairman and Vice-Chairman, the Commissioners present at any meeting may elect one of their number to preside.

25. At all meetings of the Commissioners the business shall be conducted in accordance with the following rules:— *Conduct of business at meetings.*

(a) the quorum necessary for the transaction of business shall be such number, not less than four, as the Commissioners may from time to time prescribe, but no Commissioner who is prohibited as hereinafter in this section provided from voting in any proceedings shall be counted in the quorum so far as regards such proceedings;

(b) at ordinary meetings any business may be transacted of which due notice has been given;

Provided that any other business may be transacted if two-thirds of the total number of Commissioners present resolve that it is of an urgent nature;

(c) at special meetings no business shall be transacted other than the special business for the consideration of which the meeting was specially called;

(d) all questions which may come before the Commissioners at any meeting shall be decided by a majority of votes. Each Commissioner shall have one vote, and, in case of equality of votes, the President shall have a second or casting vote.

Provided that no Commissioner shall at any meeting vote on any matter (other than a proposal to issue a notification or order under section 13, section 14 or section 151) in which he has, directly or indirectly, by himself or his partner, any share or interest such as is described in any of the provisoes to section 12 or in which he is interested either professionally on behalf of a client or as agent for any person other than the Government, a local authority, or a Railway Company;

(e) the President may, with the consent of the meeting, adjourn the meeting from time to time,

(f) minutes of the proceedings at all meetings of the Commissioners shall be drawn up after each meeting, and shall be signed by the President and at least one other Commissioner who was present at such meeting. A copy of all such minutes shall, as soon as conveniently may be, be transmitted to the Local Government;

(g) another copy of such minutes, except such portions thereof as the Chairman may in any particular case direct, shall be open to the inspection of the public

By-laws for the conduct of business, etc.

26. The Commissioners in meeting may from time to time make by-laws, consistent with this Act, for any of the following purposes, namely :—

(a) for regulating the time and place of their meetings,

(b) for the conduct of the business of the Commissioners,

(c) for division of the duties of the Commissioners,

(d) for the guidance of persons employed by them under this Act; and

(e) generally for otherwise carrying out the provisions of this Chapter.

Powers of Chairman or Vice-Chairman.

27. All the powers, authorities and duties, in and by this Act conferred or imposed upon the Commissioners, may be exercised and performed by the Chairman or Vice-Chairman, save the powers, authorities and duties by this Act, or by any rule, by-law or order made under the provisions of this Act,

(*Chapter III—Conduct of Business by the Commissioners—Secs. 28-30*)

conferred or imposed on, or restricted to, the Commissioners in meeting

Provided that such powers, authorities and duties shall not be exercised by the Chairman or Vice-Chairman in contravention of any order issued, or rule or by-law passed by the Commissioners in meeting.

The making of contracts

28. (*1*) The Commissioners may enter into contracts authorized by this Act with any person for the execution or supply of any works, labour, materials, machinery, stores, or for other matters necessary for carrying into effect the trusts and purposes of this Act.

(*2*) Any such contract, the value or amount of which does not exceed two thousand five hundred rupees, may be made by the Chairman in the case of any work or matter which he is authorized to carry out by this Act or the rules or by-laws thereunder or which has been sanctioned by the Commissioners, but other contracts shall not be entered into except in accordance with a resolution passed by the Commissioners in meeting.

(*3*) Notwithstanding anything contained in sub-section (*1*) and sub-section (*2*), no contract, under or by which a sum greater than twenty-five thousand rupees may in any event be payable by the Commissioners, shall be valid without the assent of the Local Government

Mode of executing contracts and agreements

29. (*1*) Any contract, the value or amount of which does not exceed two thousand five hundred rupees, made by the Chairman for and on behalf of the Commissioners may be made in such manner and form as, according to the law for the time being administered in Chittagong, would bind him if such contract were on his own behalf.

(*2*) Every contract or agreement by or on behalf of the Commissioners which shall exceed the sum of two thousand five hundred rupees shall be in writing and signed by the Chairman or Vice-Chairman and by two other Commissioners, and shall be sealed with the common seal of the Commissioners

(*3*) No contract or agreement, not executed as in this section provided, shall be binding upon the Commissioners.

Manner in which works to be sanc-

30. No new work shall be commenced, and no contract in respect thereof shall be entered into, if the estimated cost of such work exceeds—

(*i*) two thousand five hundred rupees, until the plan estimate therefor shall have been determined on approved by the Commissioners in meeting,

(*ii*) twenty-five thousand rupees, until the plan and mate therefor shall have been submitted to, approved by, the Local Government.

Power to Commissioners to compound.

31. The Commissioners in meeting may abandon, compound or compromise any claim or demand on such terms as to them may seem fit

Formal defects.

32. No act or proceeding of the Commissioners shall be invalidated or deemed illegal by reason only of any vacancy in the number of the Commissioners, or of any defect in the election or appointment of any of the Commissioners, or of any defect in the notice given of any meeting, or any defect of form

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CHAPTER IV

OFFICERS AND SERVANTS.

Schedule of establishment.

33. (*1*) The Commissioners shall from time to time prepare and in meeting sanction schedules of the staff of officers and servants whom they deem it necessary to maintain for carrying out the purposes of this Act, and of the salaries, fees, and allowances assigned to such officers and servants

(*2*) A copy of the said schedules shall be attached to the annual budget estimates, and another copy to the annual administration report of the Commissioners

(*3*) The approval of the Local Government shall be required to the creation of any new post, the total emoluments of which exceed on the average one hundred rupees a month, and to any change in the remuneration of any such post

(*4*) Artisans, porters and labourers shall not be deemed to be officers or servants within the meaning of sub-section (*1*)

Temporary establishment.

34. Subject to the condition that the expenditure can be duly met from the sanctioned annual budget estimates, the Chairman may make any temporary appointment for a period not exceeding three months on a salary not exceeding one hundred rupees a month, and the Commissioners in meeting may make any temporary appointment for a period not exceeding six months on a salary not exceeding two hundred and fifty rupees a month

By-laws relating to officers and servants.

35. (*1*) The Commissioners in meeting may from time to time make by-laws—

(*a*) for regulating the grant of leave to officers and servants of the Commissioners,

(*b*) for authorizing the payment of allowances to any such officers and servants while absent on leave;

(*c*) for determining the remuneration to be paid to the persons appointed to act for any such officers and servants during their absence on leave;

(*d*) for regulating the period and other terms of service of all such officers and servants,

(*e*) for determining the conditions under which any such officers and servants shall, on retirement, receive pensions, gratuities and compassionate allowances and the amount of such pensions, gratuities and compassionate allowances,

(*f*) for determining the conditions under which pensions, gratuities or compassionate allowances may be paid to any of such officers or servants injured, or to surviving relatives of any such officers or servants killed, in the execution of their duty, whether the injury or death occurred before or after the commencement of this Act,

(*g*) for establishing and maintaining a provident or annuity fund, and in respect thereto—

(*i*) compelling all or any of such officers or servants (other than Government officials) to subscribe to such fund and, if necessary, providing for the deduction of such subscription out of the salaries or emoluments of such officers or servants,

(*ii*) fixing the conditions under which payments may be made out of such fund, and under which such payments shall discharge the fund from further liability,

(*iii*) providing for the settlement, by arbitration or otherwise, of disputes relating to such fund or the payments or subscription thereto or claims thereon, between the Commissioners and other persons, or between persons claiming any share or interest therein, and

(*iv*) regulating generally other matters incidental to such fund and the investment thereof,

(*h*) for providing for the payment by the Commissioners out of other funds vested in the Commissioners of contributions to any provident or annuity fund established by or with the approval of the Commissioners

(2) By-laws framed under this section shall not come into force unless and until they have been confirmed by the Local Government.

36. Subject to the provisions of such by-laws, the power . . . . , suspending, dismissing, fining, ... o the officers and servants of the . . . . . . the appointments sanctioned for

Appointment of officers and servants.

the time being in the schedule framed under section 33 shall be exercised—

(*a*) by the Chairman in the case of officers and servants whose monthly salary shall not exceed rupees one hundred a month, and

(*b*) in every other case by the Commissioners in meeting

Pilots **37.** (*1*) The Commissioners shall have the right and privilege of maintaining pilots and shall be bound to maintain a sufficient number of pilots

(*2*) The Commissioners in meeting may from time to time make by-laws—

(*a*) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(*b*) for regulating the duties, conduct and behaviour of pilots, and shall enforce the observance of such by-laws by the imposition of pecuniary penalties not exceeding one hundred rupees in respect of each offence or by suspension or deprivation of appointment, or otherwise, as may seem to them expedient

(*3*) By laws framed under this section shall not come into force until they have been confirmed by the Local Government

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CHAPTER V

GENERAL POWERS OF THE COMMISSIONERS

Construction of Works, etc

Works to be constructed **38.** The Commissioners may construct and carry out the following works —

(*a*) docks, wharves, quays, stages jetties and piers with all necessary and convenient drains, arches, landing-places, stairs, fences and approaches,

(*b*) quarters and buildings for the residence of the Commissioners' officers,

(*c*) railways, tramways, warehouses, sheds, engines and other appliances for conveying, receiving and storing goods landed or to be shipped or carried, and places suitable for the sampling and selling of such goods,

(*d*) the laying down of moorings, and the erection of cranes, scales and all other necessary appliances for loading and unloading vessels,

(*Chapter V.—General Powers of the Commissioners— Sec. 39*)

(*e*) the reclamation, enclosing, raising and revetting of any part of the bank or bed of the river,

(*f*) the construction and application of dredgers and other machines for cleaning, deepening and improving the bed of the river,

(*g*) the procuring and employment of steam-vessels for towing vessels into, out of, in or upon, the river, and for carrying passengers and their personal effects within or partly within and partly without the limits of the port,

(*h*) the construction of such works within or without the limits of the port as shall be necessary for the protection of works executed under this Act,

(*i*) the maintenance and improvement of any navigable channel which the Local Government may, by notification, place under the management of the Commissioners, and

(*j*) all such other works and appliances as may, in the opinion of the Commissioners be necessary for carrying out the provisions of this Act.

Port By-laws

Power to Commissioners to make Port by-laws

39. (*1*) The Commissioners in meeting may, subject to the condition of previous publication[1], from time to time make by-laws consistent with the Indian Ports Act 1908[2], and with this Act, for any of the following purposes (that is to say) —

(*a*) for regulating, declaring and defining the docks wharves, quays, stages, jetties and piers on and from which goods shall be landed from and shipped in, vessels within the port,

(*b*) for regulating the manner in which and the conditions under which, the loading and discharging of all vessels within the port shall be carried out,

(*c*) for the safe and convenient use of such docks, wharves, quays stages, jetties and piers, and of landing-places, tramways, warehouses, sheds and other works in and adjoining them,

(*d*) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing or may be alleged to be so damaged,

[1] As to previous publication see the Bengal General Clauses Act, 1899 (Ben. Act I of 1899), s. 24, printed ante p. 18.

[2] Printed in the General Acts 1908-09, Ed. 1909, p. 519.

(e) for regulating the mode of payment of tolls, dues, rates, duties and charges levied under this Act;

(f) for providing water for ships, and for licensing and regulating water-boats within the port;

(g) for the removal of wrecks from the port or the river, and keeping clean the port, the river, the bank of the river, and the works of the Commissioners, and for preventing filth and rubbish being thrown therein or thereon;

(h) for regulating the hours during which European seamen, and apprentices shipped on the same footing as European seamen, may be employed within the port on board ships or on docks, wharves, quays, stages, jetties and piers in work necessitating exposure to the sun; and

(i) for otherwise carrying out the purposes of this Act.

(2) No by-law made under this section shall come into force until it has been confirmed by the Local Government.

Public Landing places, etc.

Free public landing places.

40. The Commissioners shall provide a sufficient number of landing-places within the port from and upon which the public may be permitted to embark and land free of charge.

Removal of bathing-places and landing-places.

41. The Commissioners may occupy or remove or alter any bathing-place or landing-place in the port, and prohibit the public from resorting to or using such bathing-place or landing-place:

Provided that the Commissioners shall provide for the use of the public such other bathing-places or landing-places, if any, as the Local Government may by notification direct.

Landing and Shipment of Goods, and Registration of Cargo-boat traffic.

Appliances for shipment and landing in and from sea-going vessels.

42. For the expeditious and convenient landing and shipment of goods from and in sea-going vessels within the port, and for the storing of such goods, the Commissioners may provide and maintain sufficient docks, wharves, quays, stages, jetties, piers, warehouses and sheds and sufficient servants and appliances, and may by their servants land and ship all goods from and in any such vessel coming to any such dock, wharf, quay, stage, jetty or pier, except where there is a lawful excuse for refusing to land or ship such goods or such vessel is, under any enactment for the time being in force, not entitled to have her cargo shipped or discharged.

Provided as follows:—

(1) the Commissioners shall not be bound to land, ship or move any single article or package exceeding [illegible] tons of twenty hundredweight in weight, except at such special charge as may be agreed upon in respect of such article or package;

(2) the Commissioners may, by special arrangement with the masters of vessels or the owners of goods, permit goods to be landed or shipped by persons other than the officers and servants of the Commissioners.

43. (1) When the Commissioners or the Assam-Bengal Railway Company, as the case may be, have made and completed, abutting on the river and whether within or without the limits of the port, any dock, wharf, quay, stage, jetty or pier together with sufficient warehouses, sheds and appliances for landing and shipping or for landing or shipping goods from and into sea-going vessels, the Commissioners may, with the previous sanction of the Local Government, by notification published in the Calcutta Gazette declare that such dock, wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping or for landing or shipping, as the case may be, goods from and into sea-going vessels.

(2) From and after such publication the Commissioners may from time to time, when there is room in or at such dock, wharf, quay, stage, jetty or pier, order [illegible] alongside of such dock, wharf, quay, stage, jetty or pier, whether for the purpose of landing and shipping goods or for landing or shipping the same, as the case may be, any sea-going vessel within the port which has not commenced to discharge cargo or which being about to take in cargo has not commenced to take in cargo.

44. When the Commissioners or the Assam-Bengal Railway Company, as the case may be, have provided [illegible] and abutting on the river a sufficient number of docks, wharves, quays, stages, jetties or piers together with such number of warehouses, sheds and appliances as the Commissioners may deem necessary, the Commissioners may, with the previous sanction of the Local Government, by order published in the Calcutta Gazette, direct that no goods shall be landed or shipped from or into sea-going vessels [illegible] port [illegible] docks, wharves, quays, stages, jetties and piers.

45. (1) When the Commissioners or the Assam-Bengal Railway Company, as the case may be, have [illegible], abutting on the river, any dock, wharf, quay, stage, jetty or pier for receiving, landing or shipping goods [illegible] vessels not being sea-going [illegible] together with a sufficient number [illegible]

of warehouses, sheds and appliances as the Commissioners may deem necessary in that behalf, the Commissioners may, with the sanction of the Local Government, by an order published in the Calcutta Gazette declare—

(*a*) that such dock, wharf, quay, stage, jetty or pier is ready for receiving, landing or shipping goods from or in vessels, not being sea-going vessels, and

(*b*) that, within certain prescribed limits within the port, to be specified in such order, it shall not be lawful—

(*i*) to land or ship any goods from or in any vessel, not being a sea-going vessel, of any class specified in such order, except at such dock, wharf, quay, stage, jetty or pier, or

(*ii*) for any such vessel, while within such limits, to anchor, fasten or lie, within fifty yards of low-water mark, without the consent of the Commissioners

(*2*) If after such publication any such vessel, while within such limits, so anchors, fastens or lies, the Commissioners may cause the same to be removed out of the said limits

Prior publication of notifications under sections 43 44 and 45

46. Before issuing any notification under section 43, or any order under section 44 or section 45, the Commissioners shall publish in the Calcutta Gazette a draft of the proposed notification or order, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified

Tolls and charges in the case of railway jetties

47. Before publishing a draft notification or order under section 46 in respect of any dock, wharf, quay, stage, jetty or pier belonging to the Assam-Bengal Railway Company, the Commissioners shall satisfy themselves that the scale of tolls, dues, rates and charges levied by the said railway—

(*i*) at or for the use of such dock, wharf, quay, stage, jetty or pier, or

(*ii*) for services to be performed thereat, or

(*iii*) for the use of works and appliances thereon,

has been duly sanctioned by the Railway Board under the powers conferred upon the said Board by or under section 2[1] of the *Railway Board Act, 1905.* 4 of

Power to Commissioners to order removal of vessels from docks wharves etc

48. (*1*) The Commissioners may, by notice in writing, order the master or owner of any vessel to remove such vessel from any dock wharf, quay, stage, jetty or pier belonging to the Commissioners or to the Assam-Bengal Railway Company

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[1] Printed in the General Acts, 1904-09, Ed 1909 p 79

(*2*) Unless such vessel is removed therefrom within twenty-four hours after service of such notice on the master or owner thereof, the Commissioners may charge, in respect of such vessel, such sum as they think fit, not exceeding five hundred rupees for each day of twenty-four hours, or portion of such day after the expiry of such twenty-four hours, during which such vessel remains at such dock, wharf, quay, stage, jetty or pier.

Power to Local Government to exempt from obligation to use docks, wharves, etc.

49. Notwithstanding anything contained in this Chapter, the Local Government may, by notification[1] from time to time permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port, in such manner, during such period, subject to such payments and on such conditions as the Local Government may think fit, and otherwise grant exemption from any of the provisions of this Chapter.

Discharge of liability on goods landed.

50. (*1*) Whenever any goods are landed by the Commissioners or by the Assam-Bengal Railway Company from any vessel, the Commissioners or the Assam-Bengal Railway Company, as the case may be, shall, if so required, give to the master of such vessel a receipt in the form or to the effect set forth in the Second Schedule to this Act, and may in any such receipt include all goods landed from such vessel during one day.

(*2*) No master or owner of a vessel from which the goods, in respect of which a receipt is given under sub-section (*1*), may have been landed shall be liable for any loss or damage to such goods which may occur after they have been so landed.

Accommodation for Customs officers on docks, wharves, etc.

51. When the Local Government appoint under the provisions of any Act for the regulation of duties of Customs, any dock, wharf, quay, stage, jetty, pier, warehouse or shed provided under this Act for the use of sea-going vessels, to be a dock or wharf for the landing or shipping, or a warehouse for the storing of goods within the meaning of such Act,

the Commissioners shall set apart maintain and secure on or in such dock, wharf quay, stage, jetty, pier, warehouse or shed such portion thereof, or place therein or adjoining thereto, for the use of the officers of Customs as the Local Government may approve of or appoint in that behalf.

Dues at Customs docks, wharves, etc.

52. Notwithstanding that any dock, wharf, quay, stage, jetty, pier, warehouse or shed or portion thereof has, under the provisions of section 51, been set apart for the use of the officers of Customs, all dues, rates, tolls, charges and rents payable under this Act in respect thereof, or for the use thereof or for the storage of goods therein, shall be paid and be payable to the Commissioners, or to such persons as they may appoint to receive the same.

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[1] For Notifications issued under s. 49, *see* Calcutta Gazette, 1914, Pt. I, pp. 2073, 2074, 2272.

of warehouses, sheds and appliances as the Commissioners may deem necessary in that behalf, the Commissioners may, with the sanction of the Local Government, by an order published in the Calcutta Gazette declare—

(*a*) that such dock, wharf, quay, stage, jetty or pier is ready for receiving, landing or shipping goods from or in vessels, not being sea-going vessels, and

(*b*) that, within certain prescribed limits within the port, to be specified in such order, it shall not be lawful—

(*i*) to land or ship any goods from or in any vessel, not being a sea-going vessel, of any class specified in such order, except at such dock, wharf, quay, stage, jetty or pier, or

(*ii*) for any such vessel, while within such limits, to anchor, fasten or lie, within fifty yards of low-water mark, without the consent of the Commissioners

(*2*) If after such publication any such vessel, while within such limits, so anchors, fastens or lies, the Commissioners may cause the same to be removed out of the said limits

Prior publication of notifications under sections 43, 44 and 45

46. Before issuing any notification under section 43, or any order under section 44 or section 45, the Commissioners shall publish in the Calcutta Gazette a draft of the proposed notification or order, together with a notice specifying a date on or after which the draft will be taken into consideration, and shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified

Tolls and charges in the case of railway jetties

47. Before publishing a draft notification or order under section 46 in respect of any dock, wharf, quay, stage, jetty or pier belonging to the Assam-Bengal Railway Company, the Commissioners shall satisfy themselves that the scale of tolls, dues, rates and charges levied by the said railway—

(*i*) at or for the use of such dock, wharf, quay, stage, jetty or pier, or

(*ii*) for services to be performed thereat, or

(*iii*) for the use of works and appliances thereon,

has been duly sanctioned by the Railway Board under the powers conferred upon the said Board by or under section 2[1] of the *Railway Board Act, 1905*. 4 of

Power to Commissioners to order removal of vessels from docks wharves etc

48. (*1*) The Commissioners may, by notice in writing, order the master or owner of any vessel to remove such vessel from any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners or to the Assam-Bengal Railway Company

[1] Printed in the General Acts, 1904-09, Ed 1909, p 79

(*Chapter V.—General Powers of the Commissioners.—*
Secs. 57, 58.)

Tolls and Charges

Scales of toll and charges to be framed

57. (*1*) The Commissioners shall frame[1]—

(*a*) a scale of tolls, dues, rates and charges—

(*i*) for the landing and shipment of goods from and in sea-going vessels, and vessels not being sea-going vessels respectively, at such docks, wharves, quays, stages, jetties and piers as belong to the Commissioners,

(*ii*) for the use of such docks wharves, quays, stages, jetties and piers by such vessels,

(*iii*) for the storing and keeping of any goods stored in any premises belonging to the Commissioners,

(*iv*) for the removal of goods, and

(*v*) for the use of any mooring;

(*b*) a scale of tolls for the use of the said docks, wharves, quays, moorings, stages, jetties and piers by any such vessels, in case the Commissioners permit the goods to be landed or shipped by persons other than their own officers and servants, and

(*c*) a scale of charges for—

(*i*) any service to be performed by the Commissioners or their servants in respect of any vessels or goods,

(*ii*) the use of any works or appliances to be provided by the Commissioners, and

(*iii*) for the carrying of passengers and their personal effects on vessels belonging to, or hired by, the Commissioners.

(*2*) *Such scales shall be submitted to the Local Government,* and, after approval or modification by the Local Government, shall be published in the Calcutta Gazette

(*3*) Every such scale shall be printed in the English and Bengali languages and characters, and shall be kept hung up in some conspicuous place at the several docks, wharves, quays, stages jetties, piers, warehouses and sheds

Power to Commissioners to impose river-due and to alter *the rates* thereof

58. (*1*) The Commissioners may, with the previous sanction of the Local Government by notification[2], impose a river-due on all goods landed from or shipped into any sea-going vessel lying or being within the limits of the port, whether such goods shall or shall not be so landed or shipped at any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners

(*2*) The rates of the said due shall not exceed four annas nor be less than one anna for each ton of goods

[1] For an order made under s. 57 (*1*) see Calcutta Gazette, 1915, Pt. I, p. 4[illegible]6
[2] For a Notification issued under s. 58 see Calcutta Gazette, 1915, Pt. II, p. 412

(*3*) Subject to the limits enacted by sub-section (*2*), the Commissioners may, with the previous sanction of the Local Government, from time to time, by notification, raise or reduce the rate to be imposed, whether generally or on any particular goods or class of goods

(*4*) Before issuing any notification under this section, the Commissioners shall publish a draft of the same together with a notice specifying a date on or after which the draft will be taken into consideration, and shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified

(*5*) Every notification under this section and every draft thereof shall be published in the Calcutta Gazette, and a copy of the notification, as finally settled, shall be printed in the English and Bengali languages and characters and shall be kept hung up at some conspicuous place to be appointed by the Commissioners

Power to Commissioners to levy Customs duty on jute exported by sea

59. The Commissioners may levy and collect a Customs duty on all jute exported by sea from the Port of Chittagong to any other port, whether beyond or within India, at such rate not exceeding,—

(*a*) in the case of raw jute (including jute cuttings and rejections), two annas per bale of four hundred pounds, and

(*b*) in the case of manufactured jute, twelve annas per ton of two thousand two hundred and forty pounds,

as the Local Government may prescribe by notification

Provided that no duty shall be leviable on raw jute exported from Chittagong to Calcutta

Commissioners' lien for tolls and charges

60. (*1*) For the amount of all tolls, dues, rates, duties and charges leviable under this Act in respect of any goods, the Commissioners shall have a lien on such goods, and shall be entitled to seize and detain them until such tolls, dues, rates, duties and charges are fully paid.

(*2*) Tolls, dues, rates, duties and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the Commissioners or to be shipped for export, shall be payable before the goods are removed or shipped.

(*3*) The lien provided in sub-section (*1*) for such tolls, dues, rates, duties and charges shall have priority over all other liens and claims, except—

(*a*) a lien for freight, primage and general average where such lien has been preserved in the manner hereinafter provided, and

(*b*) a lien for money payable to His Majesty or to the Secretary of State for India in Council under any law for the time being in force.

61. (*1*) If the master or owner of any vessel, at or before the time of landing from such vessel of any goods at any dock, wharf, quay, stage, jetty or pier, gives to the Commissioners notice in writing that such goods are to remain subject to a lien for freight, primage or general average of an amount to be mentioned in such notice, such goods shall continue liable after the landing thereof to such lien — Shipowners lien for freight

(*2*) Such goods shall be retained either in the warehouses or sheds of the Commissioners, or, with the consent of the Collector of Customs of the port in the public warehouses, at the risk and expense of the owners of the said goods, until the lien is discharged in the manner provided by section 62

62. Upon the production to any officer appointed by the Commissioners in that behalf of a document purporting to be a receipt for, or a release from, the amount of such lien, executed by the person by or on whose behalf such notice has been given, the Commissioners may permit such goods to be removed without regard to such lien — Discharge of shipowners lien for freight

Provided that they shall, in every case, use reasonable care in respect to the authenticity of such document

63. (*1*) Whenever goods have, without any default on the part of the Commissioners, been left for two clear days on or in any wharf or shed belonging to the Commissioners, the Commissioners may cause such goods to be removed either to any warehouse belonging to them, or, with the consent of the Collector of Customs of the port, to the public warehouses, and the removal and detention in any such warehouse shall be at the risk and expense of the owners of the said goods — Power to Commissioners to remove goods to warehouses

(*2*) Whenever any goods are so removed, the Commissioners shall give notice to the consignee or owner of such goods of such removal if his address be known, by letter sent by post to such address, or left thereat, and shall also publish in the Calcutta Gazette, and in one or more local newspapers (if any), notice of such removal, and shall specify therein the numbers, marks and descriptions of such goods so far as the same appear

(*3*) The consignee or owner of such goods, in addition to the expenses of their removal, shall be liable,—

(*a*) in case the goods are removed to any warehouse of the Commissioners, to a charge for warehousing for the time during which the goods shall remain in the said warehouse, or

(*b*) in case the goods are removed to the public warehouses, to the charge for warehousing goods in such warehouses

(4) If such goods are removed to the public warehouses, the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Commissioners and shall be subject to the power of the sale mentioned in section 64.

Recovery by Commissioners of tolls and charges by sale of goods

64. (1) If the tolls, dues, rates, duties and charges payable to the Commissioners in respect of any goods under this Act are not paid, or,

if the lien for freight, primage or general average, where such notice as aforesaid has been given, is not discharged,

the Commissioners may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage or general average, shall, at the expiration of four months from the time when the goods were placed in their custody, sell by public auction the said goods or so much thereof as may be necessary to satisfy the amounts directed in section 65 to be paid out of the proceeds of such sale.

(2) Before making such sale, ten days' notice shall be given by publication thereof in the Calcutta Gazette and in one or more local newspapers (if any).

(3) If the address of the owner of the goods has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Commissioners, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address or sent by post.

(4) Notwithstanding anything contained in sub-section (1), sub-section (2) or sub-section (3), if such goods are of so perishable a nature as, in the opinion of the officer appointed by the Commissioners in that behalf, to render early or immediate sale necessary or advisable, the Commissioners may, within such period not less than twenty-four hours after the landing of the goods as they think fit, sell by public auction the said goods or such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods as the urgency of the case admits of.

(5) The title of a *bonâ fide*-purchaser of goods sold under this section shall not be invalidated by reason of any omission to give or send the notice prescribed by sub-section (3) or sub-section (4), nor shall any such purchaser be bound to inquire whether such notice has been sent or given.

Application of sale proceeds

65. (1) The proceeds of every such sale shall be applied as follows:—

(a) in payment of the expenses of the sale;

(b) in payment, according to their respective priorities, of the liens and claims excepted in this Chapter from the priority of the lien of the Commissioners;

(c) in payment of the tolls, dues, rates and charges of landing, removing, storing or warehousing the goods,

and of all duties or other charges due to the Commissioners in respect thereof

(2) The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agents, on his applying for the same:

Provided that such application is made within one year from the sale, or reason is shown to the satisfaction of the Commissioners why such application was not so made,

and in case such application shall not be so made, nor reason shown, such surplus shall be held by the Commissioners upon trust for the purposes of this Act.

66. If the master of any vessel, in respect of which any tolls, dues, rates, charges or penalties are payable under this Act, or any by-laws or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof, on demand, the Commissioners may apply to the Collector of of Customs of the port, — Recovery by Commissioners of tolls and charges by distraint of vessel

and such Collector shall distrain or arrest such vessel and the tackle, apparel and furniture belonging thereto or any part thereof, and detain the same until the amount so due to the Commissioners is paid,

and in case any part of the said tolls, dues, rates, charges or penalties, or of the costs of distress or arrestment, or of the keeping of the same, remains unpaid for the space of five days next after such distress or arrestment has been so made, the Collector of Customs of the port may cause the vessel or other thing so distrained or arrested to be sold and with the proceeds of such sale shall satisfy such tolls, dues rates, charges or penalties and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

67. If the Commissioners give to the officer of Government, whose duty it is to grant the port clearance of any vessel, a notice stating that an amount therein specified is due in respect of tolls, dues, rates, duties charges or penalties chargeable under this Act, or any rules or orders made in pursuance thereof against such vessel or by the owner or master of such vessel in respect thereof or against or in respect of any goods on board such vessel — Port clearance not to be granted until tolls etc are paid

such officer shall not grant such port-clearance until the amount so chargeable has been paid.

Compensation for damage to Port property

68. (1) In case any damage or mischief is done to any docks, wharves, quays, jetties, stages, piers or works constructed or acquired by the Commissioners under this Act by any vessel, through the negligence of the master thereof, or of — Compensation for damage to property of Commissioners.

any of the mariners or persons employed therein, any Magistrate of the town of Chittagong may, on the application of the Commissioners, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief:

Provided that, if at the time of the damage or mischief, the vessel was under the orders of a duly-authorized officer belonging to the Pilot Service, or the Harbour-master's department, as the case may be, the case shall not be cognizable by the Magistrate under this section.

(2) If at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed five hundred rupees,

the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid,

and such amount shall be paid to the Commissioners out of the proceeds

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CHAPTER VI

PROPERTY OF THE COMMISSIONERS.

Power to Commissioners to hold and dispose of property.

69. The Commissioners may, for the purposes of this Act acquire and hold movable and immovable property within or without the limits of the port, and may lease, mortgage, sell or exchange such property:

Provided that no sale of immovable property and no lease or alienation thereof for a term exceeding ten years shall be valid unless such sale, lease or alienation shall have been made with the previous sanction of the Local Government.

Property vested in the Commissioners.

70. The property specified in the Third Schedule shall be vested in the Commissioners, and shall be held by them subject to the provisions of this Chapter.

Transfer of Government property to Commissioners.

71. (*1*) In the case of any property specified in Part I of the Third Schedule, or which may hereafter be transferred by the Local Government to the Commissioners otherwise than in exchange for its market value, no buildings or other permanent structures shall be erected thereon except with the sanction of the Local Government

(*Chapter VI—Property of the Commissioners—Secs 72, 73*)

(2) If any portion of the property referred to in sub-section (1) is required by the Local Government for a public purpose, the same may be resumed by the said Government without claim to compensation on the part of the Commissioners, except—

(a) for the amount of any consideration or other payment made in respect of the transfer to the Commissioners,

(b) for the cost of revetment and other works for the protection of the property resumed which have been effected with the sanction of the Local Government by and at the expense of the Commissioners constituted under the Chittagong Port Commissioners Act, 1887[1], or under this Act, and

(c) for buildings and other permanent structures erected thereon with the sanction of the Local Government

Provided as follows —

(i) the compensation to be awarded under clause (b) shall not in any case exceed the market value of the land resumed at the time of such resumption

(ii) the compensation to be awarded under clause (c) shall be either the original cost of the building or structure or the market value of the same at the time of such resumption, whichever is less,

(iii) if any question arises between the Commissioners and the Local Government as to the boundaries of any portion of the land referred to in sub-section (1) the Local Government may define and demarcate such boundaries and the decision of the Local Government in respect thereto shall be final

Acquisition of land

72. When any land is required for the purposes of this Act, the Local Government may, on the request of the Commissioners, proceed to acquire it under the provisions of the Land Acquisition Act, 1894[2], and, on payment by the Commissioners of the compensation awarded under that Act and of the charges incurred by the Local Government in connection with the proceedings, the land shall vest in the Commissioners

Property to be in trust

73. All property vested in or acquired or held by, and all moneys paid or payable to the Commissioners shall be held and applied by them in trust for the purposes of this Act

[1] Ben Act 4 of 1887 has been repealed by this Act see Sch I post p 91[illegible]
[2] Printed in the General Acts, 1887 97 Ed 1 [illegible] p 303

CHAPTER VII

BORROWING POWERS.

Power to Commissioners to borrow

74. The Commissioners may, after notification in the Calcutta Gazette, raise money required for the carrying out of works which they are authorized by this Act to carry out, or for the general purposes of this Act, or for the purpose of re-paying, either in whole or in part, any moneys heretofore or hereafter borrowed or owing by the Commissioners

Provided as follows —

(*1*) no loan shall be raised without the previous sanction of the Local Government, and if the amount of the loan exceeds five lakhs of rupees, or if the repayment of the loan is to be made after a period exceeding thirty years, of the Governor General in Council,

(*2*) when the amount of any loan to be raised exceeds five *lakhs* of rupees, the previous sanction of the Governor General in Council shall also be required to the dates within which the loan is to be raised or, if the loan is to be raised in instalments, the dates within which each instalment is to be raised.

Security for money raised under this Act

75. All loans raised under this Act shall be raised on the security of—

(*a*) the property now vested, or which may hereafter become vested, in the Commissioners, and

(*b*) the tolls, dues, rates, rents and charges leviable under this Act, less any sums set apart by the Commissioners as a sinking fund for the purpose of paying off a loan

Form and transferability of debentures, and the rights of Government and of debenture holders

76. (*1*) All debentures issued under this Act shall be in such form as the Commissioners shall from time to time determine

Provided that, in the case of loans raised out of India, the form of the debentures shall require the previous sanction of the Governor General in Council.

(*2*) The holder of any debenture in any form duly authorized under this section may obtain in exchange therefor, upon such terms as the Commissioners shall from time to time determine, a debenture in any other form so authorized.

(*3*) Every debenture issued by the Commissioners shall be transferable in such manner as shall be therein expressed.

(*4*) All coupons attached to debentures issued under this Act shall bear the signature of the Chairman or Vice-Chairman, and such signature may be engraved, lithographed or impressed by any mechanical process.

of 1914.]

(*Chapter VII—Borrowing Powers.—Secs 77-79*)

(5) The right to sue in respect of moneys secured by such debentures shall be exercisable by the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others

(6) The Secretary of State for India in Council shall have, in respect of all loans made by him to the Commissioners, the same remedies as debenture-holders, but he shall not be deemed to possess any prior or greater rights in respect of such loans than debenture-holders

Loans a first charge

77. All loans contracted under the Chittagong Port Commissioners Act, 1887[1], or under this Act, and repayable by the Commissioners shall be a first charge on the income of the Commissioners and on the property now vested, or which hereafter may become vested, in the Commissioners

Establishment of sinking fund

78. (*1*) In respect of every loan raised by the Commissioners after the passing of this Act, for a term exceeding one year (except a loan taken from the Secretary of State for India in Council), the Commissioners shall provide a sinking fund Payments shall be made half-yearly to such sinking fund, and such payments shall be of such amounts as will be sufficient to liquidate the loan within a period which shall not exceed thirty years or, with the previous sanction of the Governor General in Council sixty years

(*2*) The Commissioners may apply the whole or any part of the sums accumulated in the sinking fund in or towards the discharge of the moneys for the repayment of which the fund has been established, provided that they pay into the fund in each year, and accumulate until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund, or the part of the sinking fund so applied

(*3*) The sums so set apart as a sinking fund shall be invested in securities of the Government of India or in the Commissioners' debentures, or in such other securities as the Local Government may approve in this behalf and shall be held in trust for the purposes of this Act by two trustees one being the Commissioners and the other a person appointed by the Local Government

Annual examination of sinking fund

79. (*1*) The sinking fund established for the liquidation of any loan shall be subject to annual examination by the Accountant-General, Bengal, who shall ascertain whether the cash and the current value of the securities at the credit of the fund are actually equal to the amount which would have accumulated had investments been regularly made, and had the rate of interest as originally estimated been obtained thereon

(*2*) The Commissioners shall forthwith pay into the sinking fund any amount which the Accountant-General may certify

[1] Ben. Act 4 of 1887 has been repealed by this Act, see Sch. I, *post*, p. [illegible]

to be deficient, unless the Governor General in Council specially sanctions a gradual re-adjustment.

Power to Commissioners to repay loans to Government before due date

80. The Commissioners may apply any sums which can be so applied without prejudicing the security of the other debenture-holders of the Commissioners in repaying to the Secretary of State for India in Council any sum which may remain due to him in respect of the principal of any loans, although the time fixed for the repayment of the same may not have arrived

Provided as follows —

(1) no such repayment shall be made of any sum less than five thousand rupees;

(2) if such repayment is made, the amount of interest in each succeeding instalment shall be adjusted so as to represent exactly the interest due on the outstanding principal

Disposal of unexpended balances

81. The unexpended balance, if any, of any loan raised for the carrying out of works shall,—

(1) in the case of loans made by the Secretary of State for India in Council, be repaid, and the principal of the debt correspondingly reduced; and

(2) in the case of loans raised in the open market, unless the application of such unexpended balance to other capital expenditure be sanctioned by the authority which sanctioned the raising of the loan,—

(a) be utilised in purchasing in the open market, and cancelling, debentures issued by the Commissioners, or

(b) be paid into the sinking fund established for the liquidation of such loan.

CHAPTER VIII.

Disposal of Funds.

Banking of moneys

82. (1) Except as provided in section 83, all moneys raised by and paid to the Commissioners under this Act shall be kept in such bank or banks as may be selected by the Commissioners in meeting subject to the previous approval of the Local Government

Provided that any surplus moneys not immediately required for the purposes of this Act, but which may be so required after

(*Chapter VIII —Disposal of Funds —Secs. 83, 84*)

such a short period as would, in the opinion of the Commissioners, prevent an advantageous investment thereof under the provisions of section 83 may from time to time, with the sanction of the Local Government, be deposited by the Commissioners on interest in any bank or banks in Chittagong selected for that purpose by the Commissioners.

(2) No portion of any funds kept or deposited in any bank under sub-section (1) shall be withdrawn from such bank except under the signature of the Chairman or Vice-Chairman.

Investment of balances and special funds

83. The Commissioners may invest—

(i) any balance remaining on the 31st March of each year to the credit of any account kept by them, after meeting all the charges properly debitable to such account, and

(ii) any moneys set aside for any special purpose or for the maintenance of any approved fund considered desirable by them,

in securities of the Government of India, or in fixed deposit with the Bank of Bengal, or in such other securities as the Local Government may approve in this behalf,

and may from time to time sell the said securities and invest the proceeds in other such securities, or credit the same to the account to which the moneys invested belonged for expenditure on any of the purposes to which moneys credited to such account may lawfully be applied.

Provided that the amount so invested by the Commissioners in respect of any account shall not exceed such amount, annually or in the aggregate, as may be prescribed by the Local Government.

Application of moneys

84. The moneys belonging to the Commissioners shall be applied by them in payment of the following charges, and in the case of a deficiency of assets such charges shall rank as against the fund of the Commissioners and be paid in the following order, namely —

(1) the interest and instalments of capital due in respect of any loan that may have been raised by the Commissioners or for the repayment of which the Commissioners may be liable,

(2) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to—

(i) the Chairman and the Commissioners,

(ii) the officers and servants appointed or maintained under this Act or lent to the Commissioners, and

(iii) the surviving relatives, if any, of such officers and servants,

and the contributions, if any, payable to the Local Government on account of the pension and leave-allowance of any officer lent to the Commissioners by the Local Government, and the contributions, if any, duly authorized to be made to any provident or annuity fund by by-laws made under this Act,

(*3*) any charges for which the Commissioners may be liable under sections 99 and 100,

(*4*) such sum as the Local Government may, from time to time, require under section 85 for the establishment and maintenance of police for the protection of the port and the approaches thereto,

(*5*) if the Commissioners are appointed by a notification of the Local Government to exercise the powers and perform the duties specified in section 36, sub-section (*1*)[1], of the Indian Ports Act, 1908, any other payment or expenditure mentioned in sub-section (*5*) of that section which the Local Government may direct the Commissioners to make or incur, 15 of

(*6*) the cost of repairs and maintenance of the property vested in the Commissioners, and all charges upon the same and all working expenses,

(*7*) the cost of the construction and carrying out of any of the works specified in section 38, and

(*8*) any other charge which may be specially sanctioned by the Local Government for which the Commissioners may be legally liable

Cost of Port Police

85. The Commissioners shall provide such sums as the Local Government may from time to time require as their contribution for the establishment and maintenance of police to be called "Port Police" for the protection of the port and the approaches to the port

CHAPTER IX

ESTIMATES AND ACCOUNTS

Annual estimate to be prepared and rendered

86. (*1*) The Chairman shall at a special meeting to be held in the month of February in each year, lay before the Commissioners an estimate of income and of the expenditure of the Commissioners for the year commencing on

[1] Printed in the General Acts, 1904-09, Ed 1909, p 539

OF 1914.]

(Chapter IX.—Estimates and Accounts.—Secs. 87-89.)

the first day of April next ensuing, in such detail and form as the Commissioners may, subject to the approval of the Local Government, from time to time, direct.

(2) To such estimate there shall be added—

(i) an appendix containing particulars of all new works covered by the estimates and of the estimated cost of the same; and

(ii) the schedule of officers and servants sanctioned under section 33.

(3) Such estimate shall be completed and a copy thereof sent by post or otherwise to each Commissioner at least seven clear days prior to the meeting before which the estimate is to be laid.

(4) The Commissioners shall consider the estimate so submitted to them, and shall pass the same unaltered or subject to such alterations as they may think fit.

Submission and publication of estimate.

87. (1) A copy of the estimate, as passed by the Commissioners, shall be submitted for approval to the Local Government and the Local Government may, if they think fit, approve or disallow such estimate or any portion thereof, and return the same for amendment at any time within one month of the receipt thereof.

(2) The Commissioners shall, if the estimate is so returned by the Local Government, forthwith proceed to amend the same, and shall resubmit the estimate so amended for approval to the Local Government.

(3) A copy of the estimate, as passed by the Commissioners, and a copy of the estimate as finally approved by the Local Government, shall be open to the inspection of the public at the office of the Commissioners during office hours on payment of one rupee for each inspection.

(4) An abstract of the estimate, as finally approved by the Local Government, shall be published in the Calcutta Gazette.

Supplementary estimates.

88. (1) The Commissioners may, at any time during the year for which such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them.

(2) Every such supplementary estimate passed by the Commissioners shall be submitted for approval to the Local Government in the same manner, and the provisions of section 87 shall apply to it as if it were an original annual estimate.

Re-appropriation of amounts in estimate.

89. Subject to any directions which the Local Government may give in this behalf, any sum of money, or part thereof, of which the expenditure has been authorized in an estimate sanctioned under the foregoing provisions and which has not been so spent may at any time be re-appropriated by the Commissioners to meet any excess in any other expenditure authorized in the said estimate.

Provided that the total amount of expenditure sanctioned by such estimate, as passed by the Commissioners and approved by the Local Government, shall not be exceeded without the sanction of the Local Government.

Prohibition of expenditure not provided for in estimates.

90. Save in cases of pressing emergency, no sum shall be expended by or on behalf of the Commissioners, unless such expenditure is provided for in an estimate sanctioned under this Chapter and at the time in force, or by a re-appropriation amending such estimate passed by the Commissioners under section 89.

Report of exceptional *expenditure* to Local Government.

91. If any sum exceeding a total in the year of two thousand five hundred rupees shall be so expended in cases of pressing emergency, the circumstances shall be reported by the Chairman to the Local Government, together with an explanation of the way in which it is proposed by the Commissioners to cover such expenditure.

Capital expenditure.

92. No expenditure shall be charged by the Commissioners to capital account, except with the sanction of the Local Government.

Audit of accounts.

93. The accounts of the Commissioners shall be examined and audited in such manner as the Local Government may direct.

Submission of accounts to Local Government.

94. *(1)* The Commissioners shall annually, or oftener if directed by the Local Government so to do, submit statements of their receipts and disbursements in such form and at such time as the Local Government may direct.

(2) A copy of all such statements shall be open to the inspection of the public at the office of the Commissioners during office hours on payment of one rupee for each inspection.

CHAPTER X.

CONTROL OF GOVERNMENT.

Control of Local Government over Commissioners' acts and proceedings.

95. All acts and proceedings of the Commissioners shall be subject to the control of the Local Government, and the Local Government may—

(*i*) cancel, suspend or modify any such acts or proceedings,

(*ii*) grant exemptions from the payment of any tolls, charges, dues or rates leviable under this Act, and

(*iii*) direct what acts and proceedings of the Commissioners shall be submitted, and in what form.

of 1914.]

(*Chapter X—Control of Government—Secs 96-98*)

Annual and other reports

96. The Commissioners shall annually, or oftener if directed by the Local Government so to do, submit in such form and at such time as the Local Government may direct, reports of all works executed and proceedings taken by them under this Act

Power to Local Government to insist on imposition or increase of rates etc

97. (*1*) If at any time it appears to the Local Government that sufficient provision is not being made by the Commissioners to meet their liabilities the Local Government may require the Commissioners to make such provision in either or both of the following ways, namely —

(*a*) by increasing, subject to the sanction of the Local Government, to such extent and for such period as may appear necessary, the rates or any of the rates for the time being in force under section 57, or

(*b*) by exercising, subject to the like sanction, all or any of the powers conferred by section 58 with reference to all or any goods referred to in that section

(*2*) If within one month after receipt of a requisition under clause (*a*) of sub-section (*1*), the Commissioners do not comply with the same, the Local Government may, by notification, increase the said rates or any of them, and the rates imposed by such notification shall have the same force and effect as a scale of rates framed, sanctioned and published under section 57.

(*3*) If the Commissioners do not forthwith comply with a requisition under clause (*b*) of sub-section (*1*), the Local Government may, by notification, impose or increase any river-due on all or any goods referred to in section 58, and the river-due so imposed or increased shall have the same force and effect as a river-due imposed, sanctioned and published under section 58

Power to Local Government to require modification of scales

98. (*1*) If at any time it appears to the Local Government that any scale framed and published under section 57 should be modified, the Local Government may call upon the Commissioners to modify such scales accordingly.

(*2*) If within two months after receipt of a requisition under sub-section (*1*) the Commissioners do not make the modification required by the Local Government, the Local Government may, by notification, make such modification, and the scale so modified shall have the same force and effect as a scale framed and published under section 57 :

Provided that before [illegible] the Local Government shall receive [illegible] or suggestion which may be made [illegible] within two months after receipt of the requisition under sub-section (*1*).

Power to Local Government to order survey

99. The Local Government may at any time order a survey and examination of any works of the Commissioners under this Act, or of the site thereof, and the cost of such survey or examination shall be borne and paid by the Commissioners.

Power to Local Government to carry out neglected works.

100. If the Commissioners allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them or duly estimated for and sanctioned,

and do not, after notice given by the Local Government in writing, proceed effectually to repair or complete such work,

the Local Government may cause such work to be restored, completed or constructed, and the cost thereof shall be borne and paid by the Commissioners.

Power to Local Government to revoke powers of Commissioners

101. (1) If at any time the Local Government are satisfied that the purposes intended to be accomplished under this Act have not been and are not likely to be properly accomplished by the Commissioners, the Local Government may, by notification, give notice that, unless within six months the Commissioners take measures to the satisfaction of the Local Government for properly accomplishing such purposes, the powers by this Act conferred on the Commissioners will, at the end of such period, be withdrawn and revoked.

(2) On the expiration of the period aforesaid, the Local Government may, if no such measures to their satisfaction have been taken by the Commissioners, declare such powers to be withdrawn or revoked, and may assume such powers, and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights and authorities and all the property vested in or held by the Commissioners for the purposes of this Act shall thereupon vest in the Local Government.

CHAPTER XI

PENALTIES AND PROCEDURE.

Unlawful interest of Commissioner in contracts or employment.

102. Any Commissioner who, save as provided in section 12, acquires or agrees to acquire, directly or indirectly, any share or interest in any work done by order or on behalf of the Commissioners, or in any contract or employment with, by, or on behalf of the Commissioners shall, in addition to the disqualification provided under section 12, be punished with fine which may extend to five hundred rupees.

Unlawful interest of officer or servant in contracts or employments

103. Any officer or servant of the Commissioners who directly or indirectly—

(a) otherwise than as a debenture-holder, lends money to the Commissioners or

of 1914.]

(Chapter XI—Penalties and Procedure—Chapter XII—Miscellaneous—Secs. 104-107)

(b) becomes pecuniarily interested in any contract made by or on behalf of the Commissioners, or

(c) participates or agrees to participate in any profits of any work done by order of or on behalf of the Commissioners,

shall be punished with fine which may extend to five hundred rupees

Provided that nothing in this section shall apply to any officer or servant of the Commissioners by reason only of his being a shareholder in or member of any company (registered under the provisions of any Act for the registration of joint-stock companies passed by any Indian Legislature or by the Parliament of the United Kingdom, or incorporated by Act of Parliament, Royal Charter, or otherwise) which may lend money to, contract with, or be employed by or on behalf of the Commissioners

Infringement of by-laws, orders, etc

104. Whoever infringes any by-law made by the Commissioners under section 39, or any order issued by them under sections 43, 44 or 45, or any condition prescribed under section 49 or 55, or the direction contained in section 53, or the prohibition contained in section 54, shall be punished with fine which may extend to one hundred rupees, and, if the infringement be continuing, with a further fine, which may extend to one hundred rupees for every day after notice of such infringement has been given by the Commissioners

Prosecutions

105. Prosecutions under this Act may be instituted by the Commissioners or by any person authorized by them in this behalf by name or by virtue of his office, and not otherwise

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CHAPTER XII

MISCELLANEOUS

Commissioners etc. to be public servants

106. Every Commissioner, and the officers and servants of the Commissioners, other than artisans, porters and labourers, shall be deemed to be public servants within the meaning of section 21[1] of the Indian Penal Code

Exemption of Commissioners from personal liability

107. No Commissioner shall be personally liable for any contract made or expense incurred by or on behalf of the Commissioners, but the funds from time to time in the hands of the Commissioners shall be liable for, and chargeable with, all contracts made in manner provided by this Act

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[1] Printed in the General A

(*Chapter XII—Miscellaneous.—Secs. 108-112*)

Liability of Commissioners for breach of trust

108. Every Commissioner shall be liable for any misapplication of money entrusted to the Commissioners, to which he has been a party, or which happens through, or is facilitated by, his neglect of duty

Notice and limitation of suits

109. (*1*) No suit shall be brought against the Commissioners, or against any Commissioner, or against any of the officers or servants of the Commissioners or any person acting under their direction, for anything purporting to be done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of the Commissioners or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff, and unless such notice is proved the Court shall dismiss the suit

(*2*) Every such suit shall be commenced within six months next after the accrual of the right to sue and not afterwards

(*3*) If any person to whom any such notice of suit is given tenders sufficient amends before the suit is brought, such plaintiff shall not recover

Responsibility of Commissioners for loss etc

110. The responsibility of the Commissioners for the loss destruction or deterioration of animals or goods, during such time as the same remain in the possession or under the control of the Commissioners, shall, subject to the other provisions of this Act, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872[1] 9 o

Indemnity to Commissioners for acts of officers etc.

111. Except as provided in section 110, the Commissioners shall not be answerable—

(*i*) for any misfeasance, mal-feasance or non-feasance of any officer appointed under this Act or of any conservator or harbour master, or of any pilot, or of any deputy or assistant of any of the officers abovementioned, or of any person acting under the authority or direction of any such officer, deputy or assistant, or

(*ii*) for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things within the limits of the port which may be used by such vessel

Provided that nothing in this section shall protect the Commissioners from a suit in respect of any negligence or default on their part or of any act done by or under their express order or sanction

Saving of previous Port Regulations, etc

112. All acts done and proceedings taken by the Commissioners appointed under the Chittagong Port Commissioners Act, 1887[2], and all orders, rules, regulations and by-laws relating to the port, and to wharves, quays, stages, jetties, Ben of 18

[1] Printed in the General Acts 1868-78 Ed 1909, p 273

[2] Ben Act 4 of 1887 is repealed by this Act, *see* Sch I, *post* p 915

piers, landing-places, tolls, charges rates and dues within the port made and issued before the commencement of this Act, shall, whenever such acts, proceedings, orders, rules, regulations or by-laws would have been lawful if this Act had been in force, be deemed to have been respectively done, taken, made and issued under the provisions of this Act

113. All fees and sums due on account of property for the time being vested in the Commissioners, and all arrears of tolls, dues rates and charges imposed under this Act, may be recovered as if they were arrears of land revenue, in addition to the other modes provided by this Act

Recovery of dues as arrears of land revenue

THE FIRST SCHEDULE

ENACTMENTS REPEALED

(*See section 2*)

1	2	3	4
Year	No	Short title	Extent of repeal
		Act of the Governor General of India in Council	
1903	1	[1] The Repealing and Amending Act 1903	So much of the Second Schedule as relates to Bengal Act 4 of 1887
		Acts of the Lieutenant Governor of Bengal in Council	
1887	4	The Chittagong Port Commissioners Act 1887	The whole
1903	4	The Chittagong Port Commissioners (Amendment) Act, 1903	The whole
		Act of the Lieutenant Governor of Eastern Bengal and Assam in Council	
1912	1	The Chittagong Port Commissioners (Amendment) Act 1912	The whole

[1] Now known as the Amending Act, 1903, *vide* Act 10 of 1914 Sch II

(The Second and Third Schedules)

THE SECOND SCHEDULE

(See section 50)

Form of receipt for goods.

By the $\frac{\text{Port Commissioners}}{\text{Assam Bengal Railway Company}}$, Chittagong,

Landed during the day of from the by the $\frac{\text{Port Commissioners}}{\text{Assam Bengal Railway Company}}$, Chittagong, the noted in the margin, contents and state of the contents unknown.

NOTE—*If there be any apparent injury, this is to be stated*

A. B,

For the $\frac{\textit{Port Commissioners}}{\textit{Assam Bengal Railway Company}}$, *Chittagong.*

CHITTAGONG,

The day of

THE THIRD SCHEDULE

PROPERTY VESTED IN THE COMMISSIONERS

(See sections 70 and 71)

Part I.—Immovable property transferred by Government to the Commissioners constituted under the Chittagong Port Commissioners Act, 1887[1]. Ben A 1887

1. All the land belonging to Government, bounded on the east by the Nimtolly creek; on the south by the Karnaphuli river, on the west by the Monohurkhali creek; and on the north by a line drawn from Nimtolly creek to Monohurkhali creek, east and west immediately to the south of the premises [illegible] at the time of the passing of [illegible] Act, 1887[1], (hereinafter in [illegible] the Sailors' Home. Ben A 1887

[1] Ben Act 4 of 1887 is repealed by this Act—*see* Sch I, *ante*, p 915

(The Third Schedule)

2. The land held by Government at the time of the passing of the said Act in the occupation of the Customs Department, bounded on the east by the road known as the Rangamati road; on the south by the land belonging to Government, the boundaries of which are set forth in Article 1 of this Schedule; on the west by the Monohurkhali creek, and on the north by private property, viz, plot No 7 of the Cadastral Survey, but excluding plot No 12 of the said Survey

3. The land held by Government, bounded on the east by the Monohurkhali creek; on the south by the land at the time of the passing of the said Act occupied by the Government Salt *Golahs*; on the west by a public road leading to the *Sadar Ghât* jetty, and on the north by private property, viz, plot No. 19 of the Cadastral Survey.

4. The *Sadar Ghât* jetty and the approaches leading thereto

5. The waste land belonging to Government, at the time of the passing of the said Act occupied by the Customs Department, bounded on the east by the *Sadar Ghât* road; on the south by the Strand road, on the west by a tank, at the time of the passing of the said Act, in the possession of Messrs. Bulloch Brothers; and on the north by a road running east and west, lying to the south of the Port Commissioners' office

6. The land at the time of the passing of the said Act occupied by the Port godowns and yard, bounded on the east by the public road leading to the *Sadar Ghât* jetty, on the south by the Karnaphuli river, on the west by the premises at the time of the passing of the said Act in the occupation of Messrs Bulloch Brothers, and on the north by the Strand road

7. All other land the property of Government within the limits of the Port of Chittagong being within fifty yards of high-water mark on both banks of the Karnaphuli river, except the land at the time of the passing of the said Act occupied by the Government Salt *Golahs*, and all land, other than land with regard to which Government has the right of assessment only, within the limits of the port included in any survey plot through which a line drawn fifty yards above high-water mark passes

8. A plot of land measuring 7 acres and 34 poles (being the the site of the Port Engineer's residence), bounded on the north and east by railway land, on the south by a public road and railway land, and on the west by land belonging to Government and containing the quarters of the District Superintendent of Police

9. A plot of land measuring 350 feet by 240 feet (being the site of the Port Commissioners office Port and Shipping office, and Port Officer's residence, bounded on the north by Government land containing the *Sadar Ghât* Police-station, on the

(*The Third Schedule*)

south by a road referred to in Article 5 of this Schedule, on the east by *Sadar Ghât* road, and on the west by private land

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Part II.—Immovable property acquired otherwise than by direct transfer from Government.

(*a*) *Acquired for the revetment of the Karnaphuli river*

1. A strip of land in village Moheshkhali measuring 800 feet by 130 feet, bounded on the north by the Strand road and villages, on the south by the Commissioners' land, on the east by land belonging to the Assam-Bengal Railway, and on the west by paddy fields

2. A strip of land in village Kumarkhali measuring 2,900 feet by 500 feet, situated on the right bank of the Karnaphuli river, bounded on the north by paddy fields, on the south by the Karnaphuli river, on the east by the railway land, and on the west by Kumar *khal*

3. A strip of land in village Halishahar measuring 3,400 feet by 1,000 feet situated on the right bank of the Karnaphuli river and bounded on the north by Kumar *khal*, on the south by Mirapar *khal*, on the east by the Karnaphuli river, and on the west by paddy fields

4. A strip of land in village Halishahar measuring 2,200 feet by 800 feet, situated on the right bank of the river Karnaphuli and bounded on the north by the Mirapar *khal*, on the south by Doma *khal*, on the east by the Karnaphuli river, and on the west by paddy fields

5. A strip of land in village Halishahar measuring 2,500 feet by 800 feet, situated on the right bank of the river Karnaphuli, bounded on the north by the Doma *khal*, on the south by Wootarkata *khal*, on the east by the Karnaphuli river, and on the west by paddy fields

6. A strip of land in village Halishahar measuring 1,400 feet by 800 feet, situated on the right bank of the river Karnaphuli, bounded on the north by Wootarkata *khal*, on the south by Dakshinkata *khal*, on the east by the Karnaphuli river, and on the west by paddy fields

7. A strip of land in the village Patiya measuring 3,800 feet by 900 feet, situated on the right bank of the river Karnaphuli, bounded on the north by the Karanaphuli river; on the south by paddy fields, on the east by Kawina *khal*, and on the west by Dakshinkata *khal*

8. Strips of land measuring more or less 26 68 acres in the village of Char Lakhya, Police-station Patiya, *zila* Chittagong,

(The Third Schedule.)

bounded on the north by parts of Cadastral Survey plots Nos. 5471, 5478, 5476, 5619, 5705, 3326, 3320, 3318, 3314 of *mauza* Chur Lakhya and parts of Cadastral Survey plots Nos. 361, 363, 370, 277 of *Chak* Moheshkhali; on the south by parts of Cadastral Survey plots Nos. 5502, 5494, 5492, 5489, 5481, 5621, 3306, 3325, 3366, 3365, 3338, 3339, 3340, 3343 of Chur Lakhya and parts of Cadastral Survey plots Nos. 371, 370, 372, 373 of *Chak* Moheshkhali; on the east by parts of Cadastral Survey plots Nos 3305, 3306, 3339, 3340, 5705, 5620, 5477. 5480, 5481, 5482, 5484, 5485 of *mauza* Chur Lakhya and parts of Cadastral Survey plots Nos. 371, 372, 370, 373 of *Chak* Moheshkhali; on the west by parts of Cadastral Survey plots Nos 5496, 5494, 5502, 5620, 5617, 5705 of *mauza* Chur Lakhya and parts of Cadastral Survey plots Nos. 370, 372, 373 of *Chak* Moheshkhali

(b) Acquired for the Kutubdia Lighthouse

9. A piece of land in village Dhurung measured at the Cadastral Survey in plots Nos 5370, 5371, 5372, 5374, 5375, 5376 and 5377

(c) Acquired for boat registration

10. A piece of land measuring 150 feet by 50 feet situated on the left bank of the Gupta *khal* bounded on the north and west by paddy fields, and on the south and east by Gupta *khal*.

11. A piece of land at Shamshernagar situated on the left bank of the Kurum *khal* measuring 100 feet by 60 feet bounded on the north by the Kurum *khal*, on the south and east by paddy fields, on the west by the Karnaphuli river

12. A piece of land measuring 100 feet by 80 feet situated on the right bank of the Chaktai *khal*, bounded on the north, west and south by private lands and on the east by the Chaktai *khal*

BENGAL ACT 6 OF 1914

(The Bengal Medical Act 1914)

CONTENTS

SECTION

Annual Medical List

Rules and Regulations

BENGAL ACT 6 OF 1914

(THE BENGAL MEDICAL ACT, 1914).[1]

(The 27th May, 1914)

An Act to provide for the registration of Medical Practitioners in Bengal.

Whereas it is expedient to provide for the registration of medical practitioners in Bengal, (Preamble)

And whereas the sanction of the Governor General has been obtained, under section 5[2] of the Indian Councils Act, 1892, to the passing of this Act,

It is hereby enacted as follows —

Preliminary

1. (*1*) This Act may be called the Bengal Medical Act, 1914, (Short title local extent and commencement)

(*2*) It extends to the whole of Bengal, and

(*3*) It shall come into force on the day on which it is published in the Calcutta Gazette after having received the assent of the Governor General

Provided that section 29, section 30 and section 31 shall not come into force until a date to be appointed in this behalf by the Local Government by notification in the Calcutta Gazette

2. In this Act,— (Definitions)

(*a*) the expression "the Medical Acts" means the Medical Act, 1858, and the Acts amending the same,

(*b*) the expression "the Council" means the Council established under section 3, and

(*c*) the expression "registered practitioner" means any person registered under the provisions of this Act

The Bengal Council of Medical Registration

3. A Council shall be established and called "the Bengal Council of Medical Registration", and such Council shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued (Establishment of the Bengal Council of Medical Registration)

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons see Calcutta Gazette 1913 Pt IV, p 216 for Report of Select Committee see ibid 1914 Pt IV pp 50 to 53 for Proceedings in Council see ibid 1913, Pt IVA, pp 796-797 and ibid 1914 Pt IVA, pp 18 to 31 210, 544 to 542 595 to 613

[2] ... the Chittagong Hill tracts ... 904

(The Bengal Council of Medical Registration—Secs 4-6)

Constitution of Council

4. The said Council shall consist of fifteen members, namely —

(*a*) a President to be nominated by the Local Government,

(*b*) seven members to be nominated by the Local Government;

(*c*) a member to be elected, from among the members of the Faculty of Medicine, by the Senate of the University of Calcutta,

(*d*) one member to be elected by registered practitioner, who are qualified to be registered under the Medical Acts[1],

(*e*) three members to be elected by registered practitioners who are graduates or licentiates in Medicine of Surgery of the University of Calcutta, and

(*f*) two members to be elected by all other registered practitioners

Provided that, of the members to be elected under clause (*e*) or clause (*f*), respectively, one member shall, in each case, be elected by registered practitioners practising outside Calcutta

Nomination of members in default of election

5. If any of the electoral bodies referred to in clauses (*c*) to (*f*) of section 4 does not, by such date as may be prescribed by rule made in that behalf under section 33, elect a person to be a member of the Council the Local Government shall nominate a member in his place and any person so nominated shall be deemed to be a member as if he had been duly elected by such body

Disqualifications for being elected or nominated a member

6. A person shall be disqualified for being elected or nominated a member of the Council if he—

(a) is not registered under this Act; or

(*b*) has been sentenced by any Court for any non-bailable offence[2], such sentence not having been subsequently reversed or quashed, and such person's disqualification on account of such sentence not having been removed by an order which the Local Government are hereby empowered to make, if they think fit, in this behalf, or

(*c*) is an undischarged insolvent[3],

Provided that, in the case of first elections held and first nominations made under this Act, the persons electing the members referred to in clause (*d*), clause (*e*) and clause (*f*) of

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Criminal Procedure, 18[illegible]8

[illegible]07 (3 of 1907) s 41, and [illegible]oted in the General Acts,

section 4 and the members elected and nominated under that section shall be persons who are qualified to be registered under this Act.

7. The name every member elected or nominated under section 4 or section 5 shall be published by the Local Government in the Calcutta Gazette. Publication of names of members

8. The Council may permit any member to absent himself from meetings of the Council for any period not exceeding six months Leave of absence to members

9. (*1*) A member of the Council shall be deemed to have vacated his seat— Cessation of membership

(*a*) on his absence without excuse sufficient in the opinion of the Council from three consecutive meetings of the Council, or

(*b*) on his absence out of India for any period exceeding six consecutive months, or

(*c*) on his becoming disqualified for election or nomination as a member for any of the reasons mentioned in section 6

(*2*) On the occurrence of any vacancy referred to in sub-section (*1*), the President shall forthwith report the fact of such vacancy to the Local Government

10. If any member dies, or resigns his membership, or ceases to be a member as provided in section 9, sub-section (*1*), the vacancy shall be filled, within one month by a fresh election or nomination, as the case may be, under section 4 [illegible]

11. (*1*) The term of office of the first members elected or nominated under section 4 or section 5 shall commence on such day as may be appointed by the Local Government [illegible]

(*2*) Subject to the provisions of section 9, sub-section (*1*), the term of office of members shall be three years

(*3*) Any member shall, if not disqualified for any of the reasons mentioned in section 6, be eligible for re-election or re-nomination at the end of his term of office

12. (*1*) The Council shall make regulations to regulate [illegible]

(*a*) the times and places at which their meetings shall be held,

(*b*) the issue of notices convening such meetings, and

(*c*) the conduct of business thereat

Provided that—

(*i*) no business shall be transacted at any mee[illegible] quorum of eight members be present, an[illegible]

(*ii*) save as provided in section 17 and sect[illegible] questions arising at any meeting shall be [illegible] the votes of the majority of the memb[illegible] voting, or, in case of an equality of [illegible]

(The Bengal Council of Medical Registration—The Register of Registered Practitioners—Secs 13-16)

casting vote of the President, or, in his absence, of the member presiding at the meeting.

(2) Until such time as the regulations referred to in sub-section (1) have come into operation, it shall be lawful for the President to summon a meeting at such time and place as to him shall seem expedient, by letter addressed to each member

Payment of fees and travelling expenses to members

13. There shall be paid to the members of the Council such fees for attendance at meetings of the Council, and such reasonable travelling expenses, as may from time to time be allowed by the Council and approved by the Local Government

Registrar and establishment for the Council

14. (1) With the previous sanction of the Local Government, the Council—

(a) shall appoint a Registrar,

(b) may grant leave to such Registrar and appoint a person to act in his place and

(c) shall pay to the Registrar and to the person (if any) appointed to act in his place such salary and such allowances (if any) as the Council may determine

(2) The Council may appoint such other officers and such clerks and servants as they may consider necessary for the purposes of this Act, and shall pay them such salary and such allowances (if any) as the Council may determine

(3) The Registrar shall act as Secretary to the Council

(4) Every person appointed under sub-section (1) and sub-section (2) shall be deemed to be a public servant within the meaning of section 21[1] of the Indian Penal Code. 45 of

The Register of Registered Practitioners.

Orders by Council for maintenance of register of registered practitioners

15. (1) The Council shall, as soon as conveniently may be after the commencement of this Act and from time to time as occasion may require make orders for regulating the maintenance of a register of registered practitioners

(2) The said register shall be kept in such form as may be prescribed by rule made under section 33

Maintenance of register by Registrar

16. (1) The Registrar shall keep the register of registered practitioners in accordance with the provisions of this Act and of any orders made by the Council, and shall from time to time make all necessary alterations in the registered addresses or appointments, and the registered qualifications or titles, of such practitioners and erase the names of any practitioners who have died

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[1] Printed in the General Acts, 1834-67, Ed 1909, p [illegible]2

(The Register of Registered Practitioners.—Secs 17, 18.)

(2) To enable the Registrar to fulfil the duties imposed upon him by sub-section (1), he may send through the post a letter to any registered practitioner, addressed to him according to his registered address or appointment, to inquire whether he has ceased to practice or whether his residence or appointment has been changed, and if no answer to any such letter is received within a period of six months from its despatch, the Registrar may erase the name of such registered practitioner from the register

Provided that any name erased under this sub-section may be re-entered in the register under the direction of the Council.

17. Every person referred to in the Schedule shall, subject to the provisions hereinafter contained, and on payment of such fee as may be prescribed in this behalf by regulation made under section 33, be entitled to have his name entered in the register of registered practitioners — Persons referred to in Schedule entitled to be registered.

Provided that the Council may refuse to permit the registration of the name of any person—

(a) who has been sentenced by any Court for any non-bailable offence[1], such sentence not having been subsequently reversed or quashed and such person's disqualification on account of such sentence not having been removed by an order which the Local Government are hereby empowered to make, if they think fit, in this behalf, or

(b) whom the Council, after due inquiry (at which an opportunity has been given to him to be heard in his defence and to appear either in person or by counsel, vakil, pleader or attorney, and which may, in the discretion of the President, be held *in camera*), have found guilty, by a majority of two-thirds of the members present and voting at the meeting, of infamous conduct in any professional respect

18. If the Council are satisfied— — Amendment of Schedule.

(a) the ... on certified by any ... examining body or ... rantee that persons possessing such title or qualification possess the knowledge and skill requisite for the efficient practice of medicine, surgery and midwifery, or

(b) that any title or qualification referred to in Article 3 of the Schedule is not a sufficient guarantee as aforesaid,

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[1] For a definition of the term non bailable offence see the Code of Criminal Procedure, 1898 (5 of 1898), s 4 (b) printed in the General Acts, 1898-03 Ed 1909, p 40

they may make a report to that effect to the Local Government, who may, if they think fit, thereupon direct, by notification[1] in the Calcutta Gazette,—

(*i*) in case (*a*)—that the possession of such title or qualification shall, subject to the provisions hereinafter contained and on payment of such fee as may be prescribed in this behalf by regulation made under section 33, entitle any person to have his name entered in the register of registered practitioners or

(*ii*) in case (*b*)—that the possession of such title or qualification shall not entitle any person to have his name entered in the said register,

and the Schedule shall thereupon be deemed to be altered accordingly

Power to Council to call for certain information from authorities of Medical College or School included or wishing to be included in Schedule

19. The Council shall have power to call on the governing body or authorities of any Medical College or School included in or desirous of being included in the Schedule—

(*a*) to furnish such reports, returns or other information as the Council may require to enable them to judge of the efficiency of the instruction given therein in medicine, surgery and midwifery, and

(*b*) to provide facilities to enable any member of the Council (deputed by the Council in this behalf) to be present at the examinations to be held by such College or School

Information to be furnished to Registrar with application for registration

20. Every person who applies to have his name entered in the register of registered practitioners—

(*a*) must satisfy the Registrar that he is possessed of some title or qualification referred to in the Schedule as altered by notifications (if any) issued under section 18, and

(*b*) if he is registered under the Medical Acts[2],—

(*i*) must correctly inform the Registrar of the date of such registration, and

(*ii*) must furnish the Registrar with a correct statement of the titles or qualifications in respect of which he is so registered, and of the dates on which he obtained them, or

(*c*) if he is not registered under the Medical Acts[2]—must correctly inform the Registrar of the dates on which he obtained the titles or qualifications which entitle him to claim registration under this Act.

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[1] For a notification issued under section 18(i) *see* Notification No 1046 *Medl*, dated the 17th May 1915 published in the Calcutta Gazette of the 19th *idem*, Pt I, p 931

[2] See s 2 (*a*) *ante* p 923

(The Register of Registered Practitioners.—Secs 21-26.)

21. If any person whose name is entered in the register of registered practitioners obtains any title or qualification other than the title or qualification in respect of which he has been registered, he shall, on payment of such fee as may be prescribed in this behalf by regulation made under section 33, be entitled to have an entry stating such other title or qualification made against his name in the register either in substitution for, or in addition to, any entry previously made. *Entry of new titles and qualifications in register*

22. All fees received by the Council under this Act shall be applied for the purposes of this Act, in accordance with such rules as may be made by the Local Government under section 33. *Disposal of fees*

23. If any person is dissatisfied with any decision of the Registrar, refusing to enter the name or any title or qualification of such person in the register of registered practioners, he may, at any time within three months from the date of such decision, appeal to the Council, whose decision shall be final. *Appeal to Council from decision of Registrar*

24. Any entry in the register of registered practitioners, which is proved to the satisfaction of the Council to have been fraudulently or incorrectly made, may be erased under an order in writing of the Council. *Erasure of fraudulent and incorrect entries*

25. The Council may direct— *Power to Council to direct removal of names from register, and re-entry of names therein*

(*a*) that the name of any registered practitioner—

(*i*) who has been sentenced by any Court for any non-bailable offence[1], such sentence not having been subsequently reversed or quashed, and such person's disqualification on account of such sentence not having been removed by an order which the Local Government are hereby empowered to make, if they think fit, in this behalf, or

(*ii*) whom the Council, after due enquiry as provided in clause (*b*) of section 17, have found guilty, by a majority of two-thirds of the members present and voting at the meeting, of infamous conduct in any professional respect,

be removed from the register of registered practitioners, and

(*b*) that any name so removed be afterwards re-entered in the register.

26. (*1*) An appeal shall lie to the Local Government from every decision of the Council under section 17 or section 25. *Appeal to Local Government from decision of Council*

(*2*) Every appeal under sub-section (*1*) shall be preferred within three months from the date of such decision.

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[1] For a definition of the term "non-bailable offence", *see* the Code of Criminal Procedure, 1898 (5 of 1898), s. 4 (*b*) printed in the General Acts, 1898-03, Ed. 1909, p. 40.

(The Register of Registered Practitioners—Annual Medical List—Secs 27-32.)

Bar to suits and other legal proceedings

27. No suit or other legal proceeding shall lie in respect of any act done in the exercise of any power conferred by this Act on the Local Government or the Council or the Registrar

Notice of deaths and erasure of names from register

28. (*1*) Every Registrar of Deaths who receives notice of the death of any person whose name he knows to be entered in the register of registered practitioners shall forthwith transmit by post to the Registrar of the Council a certificate of such death, signed by him and stating particulars of the time and place of death

(*2*) On receipt of—

(*a*) any such certificate, or

(*b*) any other reliable information regarding such death,

the Registrar of the Council shall erase the name of the deceased person from the register

Penalty on unregistered person representing that he is registered

29. If any person whose name is not entered in the register of registered practitioners falsely pretends that it is so entered, or uses in connection with his name or title any words or letters representing that his name is so entered, he shall, whether any person is actually deceived by such representation or not, be punishable, on conviction by a Presidency M st class, with fine which m

Construction of references in Acts to medical practitioners

30. edical practitioner," or "duly d all other expressions importing a person recognized by law as a medical practitioner or a member of the medical profession, as used in any Bengal Act or any Act of the Governor General of India in Council in force in Bengal shall be deemed to mean a medical practitioner registered under the Medical Acts[1] or this Act, and

no certificate required to be given by any medical practitioner or medical officer under any Bengal Act or any Act of the Governor General of India in Council in force in Bengal shall be valid unless such practitioner or officer is registered under the Medical Acts[1] or this Act

Unregistered persons not to hold certain appointments

31. Except with the special sanction of the Local Government, no person other than a registered practitioner shall be competent to hold any appointment as medical officer of health, or as physician, surgeon or other medical officer in any hospital, asylum, infirmary, dispensary or lying-in-hospital which is supported partially or entirely by public or local funds.

Annual Medical List.

Publication and use of annual Medical List

32. (*1*) The Registrar shall, in every year, on or before a date to be fixed in this behalf by the Council, cause to be printed and published a correct list of the names for the time

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[1] See s. 2 (a) ante, p. 923

being entered in the register of registered practitioners, and setting forth—

(*a*) all names entered in the register, arranged in alphabetical order according to the surnames,

(*b*) the registered address or appointment of each person whose name is entered in the register, and

(*c*) the registered titles and qualifications of each such person, and the date on which each such title was granted or each such qualification was certified.

(*2*) Every Court shall presume that any person whose name is entered in the latest of such lists is duly registered under this Act, and that any person whose name is not so entered is not registered under this Act:

Provided that, in the case of any person whose name does not appear in such list, a certified copy, signed by the Registrar, of the entry of the name of such person in the register of registered practitioners shall be evidence that such person is registered under this Act.

Rules and Regulations.

33. (*1*) The Local Government may from time to time make rules[1] to carry out the purposes of this Act. Rules and regulations.

(*2*) In particular, and without prejudice to the generality of the foregoing power, the Local Government may make rules[1]—

(*a*) to regulate elections under clauses (*c*) to (*f*) of section 4 and to prescribe, for the purposes of the proviso to section 4, the area to be included within Calcutta[2],

(*b*) to prescribe the form of the register of registered practitioners to be maintained under this Act,

(*c*) to regulate the application of fees under section 22, and

(*d*) to regulate the procedure to be followed by the Council in—

(*i*) conducting any inquiry referred to in proviso (*b*) to section 17, or clause (*a*) of section 25, and

(*ii*) disposing of appeals from the decision of the Registrar preferred under section 23.

(*3*) In addition to the power conferred by section 12 the Council may, with the previous sanction of the Local Government, make regulations—

(*a*) to prescribe the fees chargeable in respect of any registration under this Act, and

(*b*) to regulate the keeping of accounts of such fees.

(*4*) All such rules and regulations shall be published in the Calcutta Gazette.

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[1] For rules made under this section see Calcutta Gazette, 1914, Pt. I, pp. 1011 and 1112, and ibid 1915, Pt. I, p. 835.

[2] For a notification defining the area to be included within Calcutta see Calcutta Gazette, 1914, Pt. I, p. 1141.

(*The Schedule*)

THE SCHEDULE

Persons who are entitled to have their names entered in the Register of Registered Practitioners

(See sections 17, 18, 19 and 20.)

1. Every person who is for the time being registered or qualified to be registered under the Medical Acts[1]

2. Every Doctor, Bachelor or Licentiate of Medicine, or Master of Obstetrics or Master, Bachelor or Licentiate of Surgery, of the University of Calcutta, Bombay, Madras, Allahabad or Lahore

3. Every person who has been trained in a Government Medical College or School in India, or in a Medical School in India not maintained but recognized by the Local Government, for the purposes of this Schedule, by notification in the Calcutta Gazette, and holds a diploma or certificate, granted by the Government, or granted by a Medical School not maintained by Government but recognized as aforesaid, declaring him to be qualified—

(*a*) to practise medicine, surgery and midwifery, or

(*b*) to perform the duties of a Military Assistant Surgeon, Hospital Assistant or Sub-Assistant Surgeon.

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[1] *See* s. 2 (*a*) *ante* p. 923

BENGAL ACT 7 OF 1914

[THE BENGAL EXCISE (AMENDMENT) ACT 1914]

CONTENTS

SECTION

BENGAL ACT 7 OF 1914

[The Bengal Excise (Amendment) Act, 1914][1]

(The 14th October, 1914)

An Act to amend the Bengal Excise Act, 1909.

Whereas it is expedient to amend the Bengal Excise Act, 1909[2], in the manner hereinafter appearing,

And whereas it is also expedient to extend that Act, as hereby amended, to Eastern Bengal,

And whereas the sanction of the Governor General has been obtained, under section 5[3] of the Indian Councils Act, 1892, to the passing of this Act,

It is hereby enacted as follows —

Short title and commencement

1. (1) This Act may be called the Bengal Excise (Amendment) Act, 1914, and

(2) It shall come into force on such date[4] as the Local Government may by notification in the Calcutta Gazette, direct

Definition of "Eastern Bengal"

2. In this Act, "Eastern Bengal" means the territory mentioned in Part I of Schedule A to the Bengal, Bihar and Orissa and Assam Laws Act, 1912[5], except the Chittagong Hill-tracts

Extension of Bengal Act 5 of 1909 as amended by this Act to Eastern Bengal

3. The Bengal Excise Act, 1909[2], as amended by this Act, is hereby extended to Eastern Bengal

Amendment of the preamble to Bengal Act 5 of 1909

4. In the first paragraph of the preamble to the Bengal Excise Act 1909 (hereinafter called the said Act), for the words "intoxicating liquor" the words "alcoholic liquor" shall be substituted

Elimination of references in Bengal Act 5 of 1909 to the Board of Revenue

5. (1) The following portions of the said Act are hereby repealed, namely —

(a) clause (2) of section 2,

(b) the words "the Board" in clauses (e) and (g) of section 7 and in clause (b) of section 85,

(c) the words "it or" in clause (g) of section 7, and

(d) section 87

...alcutta Gazette 1914 ... 83 for Proceedings ... of Fort William ... 1454 S R dated the ... 1 69

(*Secs* 6, 7)

(2) In sections 5, sub section (*1*), 8, sub-section (*3*), 10, 19, sub-sections (*1*) and (*3*), 35, 36, 38, sub section (*1*), 41, sub-section (*2*) and 86 of the said Act, for the word "Board," wherever it occurs, the words "Local Government" shall be substituted

(3) In sections 14, sub section (*3*), 25, sub-section (*2*), 28 (second proviso) and 30 of the said Act, for the word "Board" the words "Excise Commissioner" shall be substituted

Amendment of section 2 of Bengal Act 5 of 1909

6. In section 2 of the said Act,—

(*1*) after clause (*1*) the following shall be inserted namely —

(*1A*) (Printed *ante*, p 626)

(*2*) after clause (*4*) the following shall be inserted, namely —

(*4A*) (Printed *ante*, p 626)

(*3*) for clause (*6*) the following shall be substituted namely —

(*6*) and (*6A*) (Printed *ante* p 627)

(*4*) in clause (*13*) —

(*i*) the word "intoxicating" in sub clauses (ii) and (iii) is hereby repealed

(*ii*) the word "and" at the end of sub clause (ii) is hereby repealed, and

(*iii*) after sub clause (ii) the following shall be inserted, namely —

"(iia) cocaine, and",

(*5*) in clause (*14*),—

(*a*) for the words "intoxicating liquor" the words "liquid consisting of or containing alcohol" shall be substituted, and

(*b*) the words "all liquid consisting of or containing alcohol" are hereby repealed,

(*6*) at the end of sub-clause (III) of clause (*15*) the words "or for the reduction of liquor for sale" shall be added, and

(*7*) in clause (*17*), after the word "raft" the word "vehicle" shall be inserted.

Amendment of sections 9 and 27

7. In section 9, sub-section (*2*), and in section 27, sub-section (*3*), of the said Act, for the words and figures "and was liable on such importation to duty under the Indian Tariff Act, 1894, or the Sea Customs Act, 1878", the following shall be substituted, namely —

(Printed *ante*, pp 631 and 639)

(*Secs 8-19*)

8. After proviso (*i*) to section 13 of the said Act, the following shall be inserted, namely — Amendment of section 13
(*ia*) (Printed *ante*, p 632)

9. After clause (*f*) of section 18 of the said Act, the following shall be inserted, namely — Amendment of section 18
(*ff*) (Printed *ante*, p 634)

10. After clause (*c*) of section 19 of the said Act, the following shall be inserted, namely — Amendment of section 19
(*d*) (Printed *ante*, p 635)

11. In section 20 of the said Act,— Amendment of section 20

(*a*) to proviso (*1*) the following shall be added namely — (Printed *ante*, p 635)

(*b*) after proviso (*1*) the following shall be inserted, namely —
(*1a*) (Printed *ante*, p 636)

(*c*) in proviso (*3*) (*b*), after the words "sale of *tari*" the words "lawfully possessed" shall be inserted,

(*d*) in proviso (*3*) (*c*) and (*d*), after the words "sale of *tari*" the words "lawfully possessed and" shall be inserted, and

(*e*) at the end of proviso (*3*) the following shall be added, namely —
(Printed *ante* p 636)

12. At the end of section 22, sub section (*2*), of the said Act, the words "or the Excise Commissioner" shall be added Amendment of section 22

13. In sub-clause (ii) of clause (*d*) of section 28 of the said Act, for the words "an acreage rate levied on the cultivation or collection of the hemp plant (*Cannabis sativa*) under" the following shall be substituted namely — Amendment of section 28
(Printed *ante*, p 640)

14. Section 39 of the said Act is hereby repealed Repeal of section 39

15. For section 44, sub-section (*1*), of the said Act, the following shall be substituted, namely — Amendment of section 44
(*1*) (Printed *ante*, p 646)

16. After section 44 of the said Act, the following shall be inserted, namely — New section 44A
44A (Printed *ante*, p 646)

17. The proviso to section 45 of the said Act is hereby repealed Repeal of proviso to section 45

18. For the word "three" in sections 46 and 52 of the said Act, the word "six" shall be substituted Amendment of sections 46 and 52

19. To section 46 of the said Act, the following shall be added, namely — Addition of proviso to section 46
(Printed *ante*, p 647)

(Secs 20 27)

New section 48

20. For section 48 of the said Act, the following shall be substituted namely —

48 (Printed *ante*, p 648)

New sections 48A and 48B

21. After section 48 of the said Act, the following shall be inserted, namely —

48A 48B (Printed *ante*, p 648)

Amendment of section 49

22. In section 49 of the said Act after the words "the Indian Penal Code" the following shall be inserted, namely — (Printed *ante*, p 649)

Amendment of section 55

23. In section 55 of the said Act,—

(*a*) before the word "manufactured', wherever it occurs in sub section (*1*), the words 'imported exported, transported' shall be inserted,

(*b*) before the word "manufacture' in sub sections (*1*) and (*2*) the words 'import export transport" shall be inserted, and

(*c*) before the word 'manufactures' in sub section (*2*), the words 'imports, exports, transports' shall be inserted

Amendment of section 62

24. (*1*) In section 62 of the said Act,—

(*a*) after the word and figures "section 46", the word and figures 'section 48" shall be inserted, and

(*b*) after the words in any enactment repealed by this Act' the words and figures "or in the Eastern Bengal and Assam Excise Act, 1910', shall be inserted I I Act

(*2*) To the said section 62 the following shall be added namely —

(Printed *ante* p 652)

Amendment of section 64

25. In the first proviso to section 64, sub section (*2*) of the said Act for the words one month" the words 'two months" shall be substituted

Amendment of section 65

26. In section 65 of the said Act,—

(*a*) after the words 'Deputy Collector" in sub section (*1*) the words or Superintendent of Excise' shall be inserted, and

(*b*) for the words and figures 'section 1), section 51, section 54 or section 59' in clause (*a*) the words and figures "any section of this Act other than section 58" shall be substituted

Amendment of section 66

27. After clause (*a*) of section 66 of the said Act, the following shall be inserted, namely —

(*aa*) (Printed *ante*, p 654)

28. In section 68 of the said Act,— Amendment of section 68

(a) after the word "Collector" the words "or any Magistrate empowered to try offences punishable under this Act", and

(b) after the word "committed" the words "or abetted the commission of"

shall be inserted

29. In section 69 of the said Act,— Amendment of section 69

(a) for the word "Magistrate" the words "any Magistrate empowered to try offences punishable under this Act" shall be substituted,

(b) after the word "committed," wherever it occurs, the words "or abetted" shall be inserted, and

(c) at the end, the following shall be added, namely —

"or

any document which throws or is likely to throw any light on the alleged offence"

30. After section 69 of the said Act, the following shall be inserted, namely — New section 69A

69 A (Printed *ante*, p 656)

31. In section 70 of the said Act,— Amendment of section 70

(a) the words "a Collector or" shall be repealed, and

(b) after the word 'committed', wherever it occurs, the words "or abetted" shall be inserted

32. In section 71, sub-section (1), of the said Act, for the words "the Commissioners for the Port of Calcutta" the words "a body of Port Commissioners" shall be substituted Amendment of section 71

33. In clause (k) of section 85 of the said Act before the words and figures "sections 66 and 67" the words and figures "section 65, clause (a) and" shall be inserted Amendment of section 85

34. After section 92 of the said Act the following shall be inserted, namely — New section 92A

92A (Printed *ante*, p 666)

35. (1) The Eastern Bengal and Assam Excise Act, 1910 is hereby repealed Repeal of Eastern Bengal and Assam Act I of 1910

(2) Every appointment, order, rule, notification or form made or issued under the said Act shall, so far as it is not inconsistent with the Bengal Excise Act, 1909[1] (as amended by this Act), continue in force, and be deemed to have been made or issued under that Act, unless and until it is superseded by any appointment, order, rule, notification or form made or issued under that Act

(3) Every license, permit or pass which was granted under any section of the Eastern Bengal and Assam Excise Act 1910,

[1] Printed *ante*, p 625

or of any Act repealed thereby, and is in force at the commencement of this Act, shall be deemed to have been granted under the corresponding section of the Bengal Excise Act, 1909[1] (as amended by this Act), and shall (unless previously cancelled, suspended, withdrawn or surrendered under that Act) remain in force for the period for which it was granted.

Ben. V of 1909.

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[1] Printed ante, p. (2).

PART II.—EASTERN BENGAL AND ASSAM ACTS, 1907 TO 1912, IN FORCE IN THE PRESIDENCY OF FORT WILLIAM IN BENGAL.

E. B. AND A. ACT 1 OF 1907

[THE EASTERN BENGAL AND ASSAM LAND REGISTRATION (AMENDMENT) ACT, 1907.]

CONTENTS.

E. B AND A ACT 1 OF 1907

[THE EASTERN BENGAL AND ASSAM LAND REGISTRATION (AMENDMENT) ACT, 1907][1]

(*6th April, 1907*)

An Act to amend the Bengal Land Registration Act, 1876.[2]

Whereas it is expedient to amend the Bengal Land Registration Act, 1876[2],

It is hereby enacted as follows —

1. (*1*) This Act may be called the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907, and — *Short title and commencement*

(*2*) It shall come into force on such date[3] as the Local Government may, by notification in the Government Gazette, appoint in this behalf.

2. (*1*) To sub clause (*c*) of clause (*2*) of section 3 of the [4]* * * * Land Registration Act, 1876[2], the following words shall be added, namely — *Amendment of Bengal Act 7 of 1876 section 3 clauses (2) (6) and (7)*

[Printed in Vol II of this Code.]

(*2*) To clause (*6*) of the same section the words "or as a trustee or executor" shall be added

(*3*) For clause (*7*) of the same section the following shall be substituted, namely —

(*7*) [Printed in Vol II of this Code]

3. (*1*) In section 13 of the said Act[5], after the word "such," where it first occurs the following words shall be inserted, namely — *Amendment of section 13*

[Printed in Vol. II of this Code]

(*2*) In the same section, after the words "to prepare" the words "or re-write or maintain" shall be inserted

4. In section 15 of the said Act[5] for the words "and a separate alphabetical arrangement for each local division" the following words shall be substituted, namely — *Amendment of section 15*

[Printed in Vol II of this Code]

5. After section 19 of the said Act[5] the following shall be inserted, namely — *New sections 19A and 19B*

19A 19B [Printed in Vol II of this Code]

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1 [illegible]

4 The word "Bengal" in s 2 (*1*) was repealed by the Bengal Laws Act 1914 (Ben Act 1 of 1914) s 3 Sch IV *ante* p 866 and is omitted

5 The Land Registration Act 1876 It is printed in Vol II of this Code

(Secs 6-15)

Amendment of section 24

6. In section 24 of the said Act [1], for the words "[the] [2] alphabetical arrangement mentioned in section fifteen" the words "the arrangement directed under section fifteen" shall be substituted

Addition to sections 28 and 83

7. To section 28 and to section 83 of the said Act [1] the following shall be added, namely —

[Printed in Vol II of this Code]

Amendment of section 30

8. *(1)* In clause *(d)* of section 30 for the words "purpose of preparing, making, or correcting any entry of the particulars specified in sections 7, 8, 11, 12 or 15" shall be substituted the words "entry of matters directed to be entered in any register prescribed by this Act or by any rule or order thereunder,"

Addition to section 30

(2) To section 30 of the said Act [1] the following shall be added, namely —

(e) [Printed in Vol II of this Code]

Amendment of section 31

9. In section 31 of the said Act [1], after the words "any information required by the Collector" the following words shall be inserted, namely —

[Printed in Vol II of this Code]

Amendment of section 53

10. In section 53 of the said Act [1]—

(a) after the word "Act" the words "and subject to the provisions of sections 640 and 641 of the Code of Civil Procedure" shall be inserted,

(b) after the word "witnesses" the words "and any applicant or his agent" shall be inserted, and

(c) for the words "in the case of a Civil Court" the words "in respect of witnesses" shall be substituted

New section 53A

11. After section 53 of the said Act [1] the following shall be inserted, namely —

53A [Printed in Vol. II of this Code]

Amendment of section 64

12. *(1)* Before the proviso in section 64 of the Land Registration Act, 1876 [3] the following shall be inserted, namely —

(3) [Printed in Vol II of this Code]

(2) After the said proviso the following proviso shall be inserted, namely —

[Printed in Vol II of this Code]

Addition to section 70

13. To section 70 of the said Act [1] the following shall be added, namely —

[Printed in Vol II of this Code]

New section 74A

14. After section 74 of the Land Registration Act, 1876 [3], the following shall be inserted, namely —

74A [Printed in Vol II of this Code]

Amendment of section 77

15. In section 77 of the Land Registration Act, 1876 [3], before the word "concerned," in the second place in which it occurs, the words "who is" shall be inserted

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[1] The Land Registration Act 1876 It is printed in Vol II of this Code

[2] The word "the" has been inserted by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914) s 5, Sch III *ante* p 863

[3] Printed in Vol II of this Code

(*Sec. 16*)

16. (*1*) The following portions of the said Act[1] are repealed, namely :—

(*a*) The second paragraph of section 5;

(*b*) in section 23, the words "and a note referring to such entry shall be made in the place in the general register in which such estate or property would have appeared according to the alphabetical arrangement mentioned in section 5";

(*c*) section 25;

(*d*) clause (*c*) of section 30

(*2*) When any order has been issued under any clause of section 19 A of the said Act[1] (as amended by this Act), in respect of any district, the following portions of the said Act[1] shall be deemed to be repealed in that district, namely :—

clause (*e*) of section 7 and clause (*e*) of section 8

(*3*) When any order has been issued under clause (*a*) or clause (*b*) of the said section 19 A in respect of any district, the following portions of the said Act shall be deemed to be repealed in that district, namely :—

(*i*) in clause (*b*) of section 8, the words "and the number which the estate bears in Part I of the general register of revenue-paying lands for its own district";

(*ii*) in clause (*a*) of section 18, the words 'the number it bears on the general register of revenue-paying lands'; and

(*iii*) in clause (*d*) of the said section 18, the words "in each Part of the general register of revenue-paying lands and"

(*4*) The following portions of the Bengal Land-revenue Sales (Amendment) Act, 1862[2], are hereby repealed, namely :— Ben Act 3 of 1862

(*i*) in section 3, the words and figures "sections 10 and 11," and

(*ii*) clause 1 of the Schedule

[1] The Land Registration Act, 1876. It is printed in Vol. II of this Code
[2] Printed in Vol. II of this Code

Amendment of section 24.

6. In section 24 of the said Act[1] for the words "[the][2] alphabetical arrangement mentioned in section fifteen" the words "the arrangement directed under section fifteen" shall be substituted.

Addition to sections 28 and 83.

7. To section 28 and to section 83 of the said Act[1] the following shall be added, namely:—

[Printed in Vol. II of this Code.]

Amendment of section 30.

8. (1) In clause (d) of section 30 for the words "purpose of preparing, making or correcting any entry of the particulars specified in sections 7, 8, 11, 12 or 15" shall be substituted the words "entry of matters directed to be entered in any register prescribed by this Act or by any rule or order thereunder".

Addition to section 30.

(2) To section 30 of the said Act[1] the following shall be added, namely:—

(e) [Printed in Vol. II of this Code.]

Amendment of section 31.

9. In section 31 of the said Act[1] after the words "any information required by the Collector" the following words shall be inserted, namely:—

[Printed in Vol. II of this Code.]

Amendment of section 53.

10. In section 53 of the said Act[1]—

(a) after the word "Act" the words "and subject to the provisions of sections 640 and 641 of the Code of Civil Procedure" shall be inserted;

(b) after the word "witnesses" the words "and any applicant or his agent" shall be inserted; and

(c) for the words "in the case of a Civil Court" the words "in respect of witnesses" shall be substituted.

New section 53A.

11. After section 53 of the said Act[1] the following shall be inserted, namely:—

53A. [Printed in Vol. II of this Code.]

Amendment of section 64.

12. (1) Before the proviso in section 64 of the Land Registration Act, 1876,[3] the following shall be inserted, namely:— Be[illegible] of 18[illegible]

(3) [Printed in Vol. II of this Code.]

(2) After the said proviso the following proviso shall be inserted, namely:—

[Printed in Vol. II of this Code.]

Addition to section 70.

13. To section 70 of the said Act[1] the following shall be added, namely:—

[Printed in Vol. II of this Code.]

New section [illegible].

14. After section 74 of the Land Registration Act, 1876,[3] the following shall be inserted, namely:—

74A. [Printed in Vol. II of this Code.]

Amendment of section [illegible].

15. In section 77 of the Land Registration Act, 1876,[3] before the word "concerned" in the second place in which it occurs the words "who is" shall be inserted.

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[1] The Land Registration Act, 1876. It is printed in Vol. II of this Code.

[2] The word "the" has been inserted by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 5, Sch. III, ante, p. 8[illegible]3.

[3] Printed in Vol. II of this Code.

(*Sec. 16.*)

16. (*1*) The following portions of the said Act[1] are repealed, namely :—

(*a*) The second paragraph of section 5,

(*b*) in section 23, the words "and a note referring to such entry shall be made in the place in the general register in which such estate or property would have appeared according to the alphabetical arrangement mentioned in section 5";

(*c*) section 25,

(*d*) clause (*c*) of section 30.

(*2*) When any order has been issued under any clause of section 19 A of the said Act[1] (as amended by this Act), in respect of any district, the following portions of the said Act[1] shall be deemed to be repealed in that district, namely :—

clause (*e*) of section 7 and clause (*e*) of section 8

(*3*) When any order has been issued under clause (*a*) or clause (*b*) of the said section 19 A in respect of any district, the following portions of the said Act shall be deemed to be repealed in that district, namely :—

(*i*) in clause (*b*) of section 8, the words "and the number which the estate bears in Part I of the general register of revenue-paying lands for its own district",

(*ii*) in clause (*a*) of section 18, the words 'the number it bears on the general register of revenue-paying lands', and

(*iii*) in clause (*d*) of the said section 18, the words "in each Part of the general register of revenue-paying lands and"

(*4*) The following portions of the Bengal Land-revenue Sales (Amendment) Act, 1862[2], are hereby repealed, namely :— Ben Act 3 of 1862

(*i*) in section 3, the words and figures "sections 10 and 11," and

(*ii*) clause 1 of the Schedule

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[1] The Land Registration Act 1876 It is printed in Vol II of this Code
[2] Printed in Vol II of this Code

(*Secs 6-15*)

Amendment of section 24

6. In section 24 of the said Act[1], for the words "[the][2] alphabetical arrangement mentioned in section fifteen" the words "the arrangement directed under section fifteen" shall be substituted

Addition to sections 28 and 83

7. To section 28 and to section 83 of the said Act[1] the following shall be added, namely —

[Printed in Vol II of this Code]

Amendment of section 30

8. (*1*) In clause (*d*) of section 30 for the words 'purpose of preparing, making, or correcting any entry of the particulars specified in sections 7, 8, 11, 12 or 15' shall be substituted the words "entry of matters directed to be entered in any register prescribed by this Act or by any rule or order thereunder,"

Addition to section 30

(*2*) To section 30 of the said Act[1] the following shall be added, namely —

(*e*) [Printed in Vol II of this Code]

Amendment of section 31

9. In section 31 of the said Act[1], after the words "any information required by the Collector' the following words shall be inserted, namely —

[Printed in Vol II of this Code]

Amendment of section 53

10. In section 53 of the said Act[1]—

(*a*) after the word "Act" the words "and subject to the provisions of sections 640 and 641 of the Code of Civil Procedure" shall be inserted,

(*b*) after the word "witnesses" the words "and any applicant or his agent' shall be inserted, and

(*c*) for the words "in the case of a Civil Court' the words 'in respect of witnesses" shall be substituted

New section 53A

11. After section 53 of the said Act[1] the following shall be inserted, namely —

53A [Printed in Vol II of this Code]

Amendment of section 64

12. (*1*) Before the proviso in section 64 of the Land Registration Act, 1876[3], the following shall be inserted, namely — Ben of 18

(3) [Printed in Vol. II of this Code]

(*2*) After the said proviso the following proviso shall be inserted, namely —

[Printed in Vol II of this Code]

Addition to section 70

13. To section 70 of the said Act[1] the following shall be added, namely —

[Printed in Vol II of this Code]

New section 74A

14. After section 74 of the Land Registration Act, 1876[3], the following shall be inserted, namely —

74A [Printed in Vol II of this Code]

Amendment of section

15. In section 77 of the Land Registration Act, 1876[3], before the word "concerned,' in the second place in which it occurs, the words who is" shall be inserted

It is printed in Vol II of this Code

...d by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914) s. 5

E B AND A. ACT 2 OF 1907

(THE EASTERN BENGAL AND ASSAM DISORDERLY HOUSES ACT, 1907)[1]

(6th April, 1907)

An Act to provide for the discontinuance of Brothels and Disorderly Houses in certain localities in Eastern Bengal [*and Assam*].

Whereas it is expedient to make provision for the discontinuance of brothels and disorderly houses in certain localities in Eastern Bengal [*and Assam*],

It is hereby enacted as follows —

1. (*1*) This Act may be called the Eastern Bengal and Assam Disorderly Houses Act, 1907, — *Short title and extent*

(*2*) It applies to all municipalities constituted under the Bengal Municipal Acts, [*1876*[2] *and*] 1884[3], and

(*3*) The Lieutenant-Governor[4] may by notification[5] in the Government Gazette[6], extend it to any specified local area not being a municipality

2. When any Magistrate of the first class receives information— — *Power to [illegible] owner etc of brothel*

(*a*) that any house in the vicinity of any educational institution, or of any boarding-house, hostel or mess used or occupied by students, is used as a brothel or for the purpose of habitual prostitution, or as a disorderly house or

(*b*) that any house is used as aforesaid to the annoyance of the inhabitants of the vicinity, or

(*c*) that any house in the vicinity of a cantonment is used as a brothel or for the purpose of habitual prostitution,

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[illegible] Gazette 1907 [illegible] 21 [illegible] nstituted under [illegible] notification to [illegible] hittagong, Hill [illegible] latter Act has [illegible] 8 and [illegible] ngal Municipal [illegible] (Ben Act 2 [illegible] 1884 [illegible] har and Orissa [illegible] 13

[6] Now the Calcutta Gazette see the Bengal [illegible] har and Orissa and A[illegible] Laws Act 1912 (7 of 1912) s 3 and Sch [illegible] item 7, in Vol I of this Code

he may summon the owner, tenant, manager, or occupier of the house to appear before him either in person or by agent to show cause why the use of such house should not be discontinued for any of the purposes or in any of the ways described in this section

Order for discontinuance **3.** If the Magistrate is satisfied that the house is used as described in clause (*a*), clause (*b*), or clause (*c*), as the case may be, of the foregoing section, he may, by written order, direct such owner, tenant, manager or occupier within a period to be stated in such order, not less than five days from the date thereof, to discontinue such use

Failure to appear **4.** If the owner, tenant, manager, or occupier, after being duly summoned, does not appear in person or by agent on the day fixed for his appearance, the Magistrate may pass an order under the foregoing section *ex parte*

Institution of proceedings **5.** Prosecutions under section 3 shall be instituted only—

(*a*) with the sanction or by order of the District Magistrate, or

(*b*) on the report of the Chairman of the Commissioners of the Municipality concerned, in pursuance of a resolution passed by the said Commissioners at a meeting, or

(*c*) on the complaint of three or more persons occupying separate holdings and resident in the vicinity of the house to which the complaint refers

Penalty **6.** If after the period stated in an order under section 3, the house is used in any of the ways described in section 2, the person against whom the order has been passed shall be punishable with fine that may extend to twenty-five rupees for every day after the expiration of that period during which the house is so used

Provided that no fine shall be imposed on an owner if he is able to prove to the satisfaction of the Magistrate that he has taken such action as is within his power to comply with the order.

Power to inspect house **7.** When the use of a house in any of the ways described in section 2 has been directed by an order under section 3 to be discontinued, it shall be lawful for the District Magistrate, by an order in writing, to authorize any officer, not below the rank of a Sub-Inspector of Police, to enter and inspect the said house at any time after the expiration of the period specified in the order under section 3, for the purpose of satisfying himself that the order is being complied with

E. B. AND A. ACT 3 OF 1907

[The Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907]

CONTENTS.

E B AND A ACT 3 OF 1907

[THE EASTERN BENGAL AND ASSAM COURT OF WARDS (AMENDMENT) ACT, 1907][1]

(1st June, 1907)

An Act to amend the Bengal Court of Wards Act, 1879.[2]

Whereas it is expedient to amend the Bengal Court of Wards Act, 1879[3],

It is hereby enacted as follows —

1. This Act may be called the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907. Short title

2. (1) In section 9 of the Bengal Court of Wards Act, 1879[3] [as amended by the Court of Wards Act (Bengal) Amendment Act, 1892[3],] the words, figures and letters from "And in any case in which the Court has taken charge" to the end of the section are hereby repealed Partial repeal of section 9 of Bengal Act 9 of 1879

(2) After section 9 the following section shall be added, namely — New section 9A

9 A [Printed in Vol. II of this Code]

3. After section 10 of the said Bengal Court of Wards Act, 1879[3], the following shall be inserted, namely — Insertion of new sections 10 A to 10 D

10 A to 10 D [Printed in Vol II of this Code.]

[4]**4.** *In section 13 of the Act after the words and figures "Act 7 of 1876" shall be inserted the words and figures "or under the Assam Land and Revenue Regulation, 1886"* Addition to section 13

5. After section 13 of the said Act[5] the following shall be inserted namely — Insertion of new section 13A

13 A [Printed in Vol. II of this Code]

[4]**6.** *In section 23, clause (1) of the Act, after the words and figures "Act 7 of 1876" the following shall be inserted, namely —* Addition to section 23

and, subject to the provisions of section 70, sub-section (2), of the Assam Land and Revenue Regulation, 1886, every share or part of an estate for which a separate account has been opened under section 65 of the said Regulation

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[1] LEGISLATIVE PAPERS —For Reports of Select Committee see E B and A Gazette 1907, Pt VI, p 21, 98, and for Proceedings in Council, see ibid, 1906 Pt VI, p 5, ibid 1907, Pt VI, p 44

[2] [illegible] by the Chittagong Hill [illegible] Court of Wards (Amend[illegible]

[3] Printed in Vol I of this Code

[4] Sections 4 and 6 apply only to Assam

[5] The Court of Wards Act, 1879 It is printed in Vol II of this of Code

(*Secs* 7-13)

New section 34A

7. After section 34 of the said Act[1] the following shall be inserted, namely:—

34A. [Printed in Vol. II of this Code.]

Partial repeal of section 56

8. The words from "or to a proprietor" to the end of section 56 of the Bengal Court of Wards Act, 1879[2] [as amended by the Court of Wards Act (Bengal) Amendment Act, 1892[3]] are hereby repealed.

Insertion of new section 59A

9. After section 59 of the said Act[1] the following shall be inserted, namely:—

59A. [Printed in Vol. II of this Code.]

Insertion of new section 60B

10. After section 60A of the Bengal Court of Wards Act, 1879[2] [as amended by the Court of Wards Act (Bengal) Amendment Act, 1892[3],] the following shall be inserted, namely:—

60B. [Printed in Vol. II of this Code.]

Repeal of section 62

11. Section 62 of the Bengal Court of Wards Act, 1879[2], is hereby repealed.

New section 64A

12. After section 64 of the said Act[1] the following shall be inserted, namely:—

64A. [Printed in Vol. II of this Code.]

Addition to section 65A

13. In section 65A of the Act[1], after the words "be recovered" shall be inserted the words "as if it were an arrear of land-revenue or".

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[1] The Court of Wards Act, 1879. It is printed in Vol. II of this Code.
[2] Printed in Vol. II of this Code.
[3] Printed in Vol. I of this Code.

E. B. AND A. ACT 1 OF 1908

[THE EASTERN BENGAL AND ASSAM TENANCY (AMENDMENT) ACT, 1908]

CONTENTS

SECTION

E B AND A ACT 1 OF 1908

[THE EASTERN BENGAL AND ASSAM TENANCY (AMENDMENT) ACT, 1908][1]

(10th June 1908)

An Act to amend and supplement the Bengal Tenancy Act, 1885[2].

Whereas it is expedient to amend the Bengal Tenancy Act, 1885[2], in the manner hereinafter appearing,

And whereas the previous sanction of the Governor General has been obtained under section 5[3] of the Indian Councils Act, 1892, to the passing of this Act;

It is hereby enacted as follows.—

1. This Act may be called the Eastern Bengal and Assam Tenancy (Amendment) Act, 1908. Short title

2. Sections 11 and 15 of the Bengal Tenancy Act, 1885[2], are hereby repealed. Repeal of sections 11 and 15 of Act 8 of 1885

3. In sub-section (3) of section 1 of the said Act[4], after the words "the town of the Calcutta" the words "any area constituted a municipality under the provisions of the Bengal Municipal Act, 1884, or part thereof, and specified in a notification in this behalf by the Local Government" shall be inserted. Addition to section 1

4. In section 3 of the Bengal Tenancy Act, 1885[2],— Amendment of clauses (5) and (10) of section 3

(*1*) in clause (*5*), after the word and figures "Chapter XII," the word and figures "Chapter XIV" shall be inserted,

(*2*) for clause (*10*) the following shall be substituted, namely.—

(*10*) [Printed in Vol I of this Code.]

5. (*1*) To sub-section (*2*) of section 12 of the said Act[4], the following shall be added, namely — Amendment of sections 12 and 13 (2)

"together with the costs necessary for the transmission of the landlord's fee to the landlord."

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[1] LEGISLATIVE PAPERS.—For Report of Select Committee, see E B and A Gazette, 1908, Pt V, pp 1 to 6; for Proceedings in Council, see ibid 1907 Pt VI, pp 107 to 111; ibid 1908 Pt VI

(2) In sub-section (3) of the said section, and in sub-section (2) of section 13,—

(i) after the words "landlord's fee" the words "the costs necessary for the transmission of the same" shall be inserted,

(ii) for the word "paid" the word "transmitted" shall be substituted, and

(iii) after the word "landlord" the words "named in the notice" shall be inserted

Amendment of sections 13 (1) and 15

6. (1) In sub-section (1) of section 13 of the said Act[1], after the words "foregoing section," and in section 15 after the word and figures "section 12" the words "together with the costs necessary for its transmission to the landlord" shall be inserted

(2) In the said section 15,—

(i) for the word "paid" the word "transmitted" shall be substituted, and

(ii) after the word "landlord" the words "named in the notice" shall be inserted

Amendment of section 16

7. In section 16 of the said Act[1], for the words "and fees" the words "fees and costs" shall be substituted

New Chapter IVA sections 18A to 18C

8. After section 18 of the said Act[1] the following shall be inserted, namely —

Chapter IVA —ss 18A to 18C [Printed in Vol I of this Code]

Amendment of section 19

9. (1) Section 19 of the Bengal Tenancy Act, 1885[2], shall be re-numbered section 19, sub section (1) 8 of

(2) After the said sub-section (1) the following shall be inserted, namely —

(2) [Printed in Vol. I of this Code]

Amendment of section 22

10. In section 22 of the Bengal Tenancy Act, 1885[2],— 8 of

(a) in sub section (1), for the words "the occupancy-right shall cease to exist" the words "such person shall have no right to hold the land as a *raiyat*, but shall hold it as a proprietor or permanent tenure-holder (as the case may be)," shall be substituted,

(b) in sub section (2) for the words from "it shall cease to exist" to the end of the sub-section, the following shall be substituted, namely —

[Printed in Vol I of this Code]

(c) after the said sub-section (2) the following shall be inserted, namely —

(3) [Printed in Vol I of this Code]

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[1] The Bengal Tenancy Act 1885 It is printed in Vol I of this Code

[2] Printed in Vol I of this Code

(Secs. 11-16.)

(d) the present sub-section (3) shall be re-numbered sub-section (1),
(e) in sub-section (1) so re-numbered after the word "acquire" the words "by purchase or otherwise" shall be inserted.

11. In section 10 of the said Act[1],— Amendment of section 40
(i) in sub-section (1), after the words "partly in another" the words "or partly in any of those ways and partly in cash" shall be inserted;
(ii) in sub-section (2), for the words "an officer making a settlement of rents" the following shall be substituted, namely —
"a Revenue-officer appointed by the Local Government under the designation of Settlement Officer or Assistant Settlement Officer for the purpose of making a survey and record-of-rights,"
(iii) in clause (b) of sub-section (4), the word "and" shall be omitted, and
(iv) to the said sub-section (4) the following shall be added, namely —
[Printed in Vol. I of this Code.]

12. After section 40 of the said Act[1] the following shall be inserted namely — New section 40A
40A [Printed in Vol I of this Code]
13. To section 52 of the said Act[1] the following shall be added, namely — Addition to section 52
(6) [Printed in Vol I of this Code]
14. For sub-section (3) of section 58 of the said Act[1] the following shall be substituted, namely — Amendment of section 58
(3) to (8) [Printed in Vol I of this Code.]
15. In section 67 of the Bengal Tenancy Act, 1885[2],— Amendment of section 67
(a) after the word "twelve" the words "and-a-half" shall be inserted, and
(b) for the words "*to the institution of the suit*" the words "to the date of payment or of the institution of the suit, whichever date is earlier" shall be substituted

16. (1) To sub-section (3) of section 69 of the said Act[1] the following shall be added, namely — Amendment of section 69
[Printed in Vol I of this Code.]
(2) To the said section the following shall be added, namely —
(4) [Printed in Vol I of this Code.]

[1] The Bengal Tenancy Act 1885 It is printed in Vol I of this Code
[2] Printed in Vol I of this Code

(*Secs. 17-23*)

Amendment of section 75.

17. In section 75 of the Bengal Tenancy Act, 1885[1], after the word "rent" the words "or interest" shall be inserted.

Amendment of sub-section (2) of section 101.

18. In sub-section (2) of section 101 of the said Act[2],—

(*1*) for clause (*a*) the following clause shall be substituted, namely:—

(*a*) [Printed in Vol. I of this Code.]

(*2*) to clause (*c*) the following shall be added, namely:—

"or a manager appointed by the District Judge under section 95."

Amendment of section 102.

19. In section 102 of the said Act[2],—

(*1*) after clause (*d*) the following clause shall be inserted, namely:—

"(*dd*) the name of each proprietor in the local area or estate;"

(*2*) after clause (*g*) the following clause shall be inserted and shall be deemed to have been so inserted from the commencement of the Bengal Tenancy (Amendment) Act, 1898[3], namely:—

(*gg*) [Printed in Vol. I of this Code.]

(*3*) after clause (*h*) the following shall be inserted, namely:—

"(*i*) any right of way or other easement attaching to the land for which a record-of-rights is being prepared;"

and the existing clause (*i*) shall be re-lettered clause (*j*).

New section 102A.

20. After section 102 of the Bengal Tenancy Act, 1885[1], so amended, the following shall be inserted, namely:—

102A. [Printed in Vol. I of this Code.]

Amendment of section 103B.

21. For section 103B of the said Act[2], the following shall be substituted, namely:—

103B. [Printed in Vol. I of this Code.]

Amendment of heading to Part II of Chapter X.

22. In the heading to Part II of Chapter X of the said Act[2], for the words "decision of disputes" the words "disposal of objections" shall be substituted.

Amendment of sections 104 and 105.

23. (*1*) In clause (*b*) of section 104, and in sub-section (*2*) of section 105 of the said Act[2], for the word, letter and brackets "clause (*i*)" the word, letter and brackets "clause (*j*)" shall be substituted.

(*2*) To the said section 104 the following proviso shall be added, namely:—

[Printed in Vol. I of this Code.]

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[1] Printed in Vol. I of this Code.
[2] The Bengal Tenancy Act, 1885. It is printed in Vol. I of this Code.
[3] Printed *ante*, p. 163.

(*Secs. 24-33.*)

24. After clause (*g*) of sub-section (*3*) of section 104H of the said Act[1] the following clause shall be inserted, namely :— Amendment of sub section (3) of section 104H New clause (h)

"(*h*) that any right of way or other easement attaching to the land has not been recorded or, has been wrongly recorded."

25. To section 105 of the said Act[1] the following shall be added, namely — Addition to section 105

(7) [Printed in Vol. I of this Code.]

26. After section 105 of the said Act[1] the following shall be inserted, namely .— New section 105A

105A [Printed in Vol. I of this Code.]

27. (*1*) Section 106 of the said Act[1] shall be re-numbered section 106, sub-section (*1*). Addition to section 106

(*2*) To the said sub-section (*1*) the following proviso shall be added, namely —

[Printed in Vol. I of this Code.]

(*3*) After the said sub-section (*1*) the following shall be inserted, namely :—

(*2*) [Printed in Vol. I of this Code.]

28. In section 107 of the said Act[1],— Amendment of section 107

(*a*) in [illegible] and figures "In all [illegible] of rents under this [illegible] der section 106" the [illegible] proceedings under [illegible] ction 106" shall be substituted, and

(*b*) for sub-section (*2*) the following shall be substituted, namely —

(*2*) [Printed in Vol. I of this Code.]

29. In section 108 of the said Act[1], after the word and figures "section 105" the word, figures and letter "section 105A" shall be inserted. Amendment of section 108

30. After section 108 of the said Act the following shall be inserted, namely — New section 108A

108A [Printed in Vol I of this Code]

31. In section 109 of the said Act[1], for the words and figures "or suit instituted under section 105, section 106, section 107, or section 108" the words, figures and brackets "suit instituted or proceedings taken under sections 105 to 108 (both inclusive)" shall be substituted. Amendment of section 109

32. In sub-section (*2*) of section 109A of the said Act[1], after the figures "108" the letter "A" shall be inserted. Amendment of section 109A

33. In Part IV of Chapter X of the said Act[1] so amended, immediately before section 110, the following shall be inserted, namely — New sections 109B and 109C

109 B, 109 C. [Printed in Vol. I of this Code]

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[1] The Bengal Tenancy Act, 1885 It is printed in Vol I of this Code.

Amendment of section 111 — **34.** In section 111 of the said Act[1], after the word "entertained"[2] the words and figures "any application made under section 158, or" shall be inserted.

New section 111B — **35.** After section 111A of the said Act[1] the following shall be inserted, namely:—

111B [Printed in Vol I of this Code.]

Amendment of section 112 — **36.** (*1*) In sub-section (*1*) of section 112 of the said Act[1], for the words "invest a Revenue officer acting under this Chapter" the following shall be substituted, namely:—

> "or that any landlord is demanding or exacting rents in excess of the rents entered as payable in a record-of-rights prepared under this Chapter or of the rents payable by reason of enhancements lawfully made after the final publication of such record invest a Revenue-officer."

(*2*) After sub-section (*2*) of the said section, the following shall be inserted, namely:—

> "(*2a*) A settlement of rents under this section shall be made in the manner provided by sections *104* to 104J (both inclusive)."

(*3*) To sub-section (*3*) of the said section the following shall be added, namely:—

> "and the revision, by direction of the Board of Revenue under sub-section (*2*) of section 104G, of a record-of-rights, or any portion of a record-of-rights, prepared under this section, shall be subject to a like confirmation by the Governor General in Council."

Amendment of section 114 — **37.** In section 114 of the said Act[1],—

(*1*) in sub-section (*1*)—

(*a*) the words "by the Government" are hereby repealed, and

(*b*) for the words "from time to time in the maintenance," the following shall be substituted, namely:—
"at any time, whether before or after the preparation of the record-of-rights, in the maintenance, repair or restoration;"

(*c*) after the word "proportions" the words and brackets "and in such instalments (if any)," shall be inserted.

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[1] The Bengal Tenancy Act, 1885. It is printed in Vol I of this Code.
[2] Sic. *Read* entertain.

(2) after sub-section (1) the following shall be inserted, namely —

(2) [Printed in Vol I of this Code]

(3) The present sub-section (2) shall be re-numbered sub-section (3) and

(4) after sub section (3), so re-numbered, and before the *Explanation* the following shall be inserted, namely —

(4) [Printed in Vol I of this Code]

38. After section 115 of the said Act[1] the following shall be inserted, namely — New section 115A

115A [Printed in Vol. I of this Code]

39. To the heading to Chapter XI of the Bengal Tenancy Act, 1885[2], the following words shall be prefixed, namely — Addition to heading to Chapter XI

"NON ACCRUAL OF OCCUPANCY AND NON-OCCUPANCY RIGHTS AND"

40. In section 116 of the said Act[1], after the words "shall apply to" the following shall be inserted, namely — Amendment of section 116

"lands acquired under the Land Acquisition Act, 1894, for the Government or for any Local Authority or for a Railway Company, or lands belonging to the Government within a cantonment, while such lands remain the property of the Government, or of any Local Authority or Railway Company, or to".

41. After sub-section (2) of section 120 of the Bengal Tenancy Act, 1885[2], the following shall be inserted, namely — Amendment of section 120

(2a) [Printed in Vol. I of this Code]

42. After section 147 of the said Act[1] the following shall be New sections 147A and 147B

of this Code]

43. 148 of the Bengal Tenancy Act, 1885[2], the following shall be inserted, namely — Amendment of section 148

(*b 1*) (*b 2*) [Printed in Vol. I of this Code]

(2) After clause (*f*) of the same section the following shall be inserted, namely —

(*ff*) [Printed in Vol I of this Code]

44. After section 148 of the said Act[1] the following shall be inserted, namely — New section 148A

148A. [Printed in Vol I of this Code]

45. The words "except for special reasons to be recorded in writing," in sections 149 and 150 of the said Act[1], are hereby repealed. Amendment of sections 149 and 150.

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[1] The Bengal Tenancy Act 1885 It is printed in Vol I of this Code
[2] Printed in Vol I of this Code

(*Secs. 46-56.*)

Addition of Explanation to section 153

46. To section 153 of the said Act[1] the following *Explanation* shall be added, namely —

[Printed in Vol I of this Code]

New section 153A

47. After section 153 of the said Act[1] the following shall be inserted, namely —

153A [Printed in Vol I of this Code.]

Amendment of sub-section (1) of section 158

48. In sub-section (*1*) of section 158 of the Bengal Tenancy Act, 1885[2], before the words "The Court having jurisdiction" the words and figures "Subject to the provisions of section 111" shall be inserted 8 o

New Chapter XIIIA and new section 158A

49. After section 158 of the said Act[1] the following shall be inserted, namely —

[3] Chapter XIIIA—s. 158A [Printed in Vol I of this Code.]

New section 158B

50. In Chapter XIV of the Bengal Tenancy Act, 1885[2], immediately before section 159, the following shall be inserted, namely — 8 o

[4] 158 B [Printed in Vol I of this Code.]

Addition of clause (c) to section 161

51. To section 161 of the said Act[1] the following shall be added, namely —

(*c*) [Printed in Vol I of this Code]

Amendment of section 168

52. In sub-section (*1*) of section 168 of the said Act[1], for the words "decrees for rent" the words "a decree for an arrear of rent" shall be substituted

Amendment of sub-section (1) of section 169 and addition of proviso

53. (*1*) In clause (*c*) of sub-section (*1*) of section 169 of the said Act[1], after the words "the date of" the words "the confirmation of" shall be inserted.

(*2*) To the said sub-section the following proviso shall be added, namely —

[Printed in Vol. 1 of this Code]

Addition to section 170

54. In section 170 of the said Act[1], after sub-section (*3*) the following shall be inserted, namely —

(*4*) [illegible] Vol I [illegible] Code.]

Amendment of section 174

55. T [illegible] (*2*) of section 174 of the said Act[1] [illegible] l, namely .—

"and i [illegible] on, he shall not be entitled to make an application under section 311 of the Code of Civil Procedure" 14 of

Amendment of sub-section (3) of section 178

56. (*1*) In proviso (*iii*) to section 178 of the Bengal Tenancy Act, 1885[2], after the words "cultivation of" the words "horticultural or" shall be inserted. 8 of 1

(*2*) To the same proviso the following *Explanation* shall be added, namely —

'*Explanation* —The expression 'horticultural land' as used in proviso (iii) means garden land in the occupation of a proprietor or permanent

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[illegible] I in Vol I of this Code

[2] [illegible]

[3] [illegible] this Chapter by the Bengal Public Demands Recc [illegible], p 806

[4] A new sub section (*1*) was substituted for sub section (*1*) of this section by the Bengal Public Demands Recovery Act 1913 (Ben Act 3 of 1913), s 61, *ante*, p 808

tenure-holder which is used *bona fide* for the cultivation of flowers or vegetables or both grown for the personal use of such proprietor or permanent tenure-holder and his family and not for profit or sale.

57. After section 186 of the said Act[1] the following shall be inserted, namely:— New heading and new section 186A.

Damages for denial of landlord's title.

186A. [Printed in Vol. I of this Code.]

58. After section 188 of the said Act[1] the following shall be inserted, namely:— New section 188A.

188A. [Printed in Vol. I of this Code.]

59. For sub-section (*2*) of section 189 of the said Act[1] the following shall be substituted, namely:— New clauses (2), (3) and (4) in section 189.

(*2*) to (*4*) [Printed in Vol. I of this Code.]

60. In section 192 of the said Act[1], before the words "fix a fair and equitable rent" the words "or of his own motion" shall be inserted. Amendment of section 192.

61. In Schedule III to the said Act[1],— Amendment of Schedule III.

(*1*) After Article 1 the following shall be inserted, namely:—

1 (*a*) To eject a non-occupancy *raiyat* on the ground of the expiration of the term of his lease.	Six months	The expiration of the term.

(*2*) In Article 2,—

(*a*) after the words "arrear of rent" the following shall be inserted, namely:—

in a suit brought by—

(*i*) a sole landlord,

(*ii*) the entire body of landlords, or

(*iii*) one or more co-sharer landlords."

(*b*) for the entry in the third column opposite clause (*b*) the following entry shall be substituted, namely:—

"the last day of the agricultural year in which the arrear fell due,"

(*3*) in Article 3, for the words "an occupancy-*raiyat*" the words "a raiyat or an under-*raiyat*" shall be substituted,

(*4*) in Article 6, for the words "under this Act or any Act repealed by this Act," the words "in a suit between landlord and tenant to whom the provisions of this Act are applicable," shall be substituted.

[1] The Bengal Tenancy Act, 1885. It is printed in Vol. I of this Code.

E. B. AND A. ACT I OF 1909

(The Eastern Bengal and Assam General Clauses Act, 1909)

CONTENTS

Preliminary

Miscellaneous

SECTIONS

E. B. AND A. ACT I OF 1909

(THE EASTERN BENGAL AND ASSAM GENERAL CLAUSES ACT, 1909)[1]

(16th June, 1909.)

An Act for shortening the language used in Eastern Bengal and Assam Acts, and for other purposes.

Whereas it is expedient to provide for shortening the language used in Eastern Bengal and Assam Acts, and to make certain other provisions relating to those Acts, and other enactments;

It is hereby enacted as follows:—

Preliminary

1. (*1*) This Act may be called the Eastern Bengal and Assam General Clauses Act, 1909. **Short title and extent.**

(*2*) It extends to the whole of Eastern Bengal [*and Assam*] including the districts [*and portions of districts*] specified in section 18.

2. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof. **Repeals.**

3. In this Act, the word "Act" shall mean an Act made by the Lieutenant-Governor of Eastern Bengal and Assam in Council under the Indian Councils Acts, 1861[2] and 1892.[3] **Meaning of the word Act.**

4. The provisions of section 5 and of sections 9 to 34 shall apply to this Act, and shall apply, and shall be deemed always to have applied, to all Acts[4] made, whether before or after the commencement of this Act. **Application of certain sections to Eastern Bengal and Assam Acts.**

Miscellaneous

SECTIONS

(*General Definitions—Sec. 5.*)

India, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall for the purposes of this definition, be deemed to be one colony.

(13) "commencement" used with reference to an Act[1], shall mean the day on which the Act comes into force. "Commencement"

(14) "Commissioner" shall mean the chief officer in charge of the revenue administration of a division. "Commissioner"

(15) "consular officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul and any person for the time being authorized to perform the duties of consul-general, consul, vice-consul or consular agent. "Consular officer"

(16) "Deputy Commissioner" shall mean the chief officer in charge of the general administration of a district. "Deputy Commissioner"

(17) "District Court" shall mean a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction. "District Court"

(18) "District Judge" shall mean the Judge of a District Court. "District Judge"

(19) "document" shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter. "Document"

(20) "Eastern Bengal" shall mean the territories transferred from the Bengal Division of the Presidency of Fort William by the proclamation constituting the Province of Eastern Bengal and Assam. "Eastern Bengal"

(21) "Eastern Bengal and Assam" shall mean the territories within British India for the time being under the administration of the Lieutenant-Governor of Eastern Bengal and Assam. "Eastern Bengal and Assam"

(22) "Eastern Bengal and Assam Act" shall mean an Act made by the Lieutenant-Governor of Eastern Bengal and Assam in Council under the Indian Councils Acts, 1861[2] and 1892[3]. "Eastern Bengal and Assam Act"

(23) "enactment" shall include a Regulation (as hereinafter defined) and any Regulation of the Bengal Code, and shall also include any provision contained in any enactment or in any such Regulation as aforesaid. "Enactment"

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[1] i. e. An Act of the Eastern Bengal and Assam Council, see s. 3 ante, p. 967.
[2] [3] Printed in the Collection of Statutes relating to India, 1913, Vol. I, p. 313, and Vol. II, p. 803, respectively.

"Father." (24) "father" in the case of any one whose personal law permits adoption, shall include an adoptive father.

"Financial year." (25) "financial year" shall mean the year commencing on the first day of April.

"Gazette." (26) "Gazette" shall mean the Government Gazette of Eastern Bengal and Assam[1].

"Good faith." (27) a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not.

"Government." (28) "Government" or "the Government" shall include the Local Government[2] as well as the Government of India.

"Government of India." (29) "Government of India" shall mean the Governor General in Council or, during the absence of the Governor General from his Council, the President in Council, or the Governor General alone, as regards the powers which may be lawfully exercised by them or him, respectively.

"High Court." (30) "High Court" shall mean the High Court of Judicature at Fort William in Bengal.

"His Majesty" or "the King." (31) "His Majesty" or "the King" shall include his successors.

"Immovable property." (32) "immovable property" shall include land, benefits to arise out of land, and things attached to the earth or permanently fastened to any thing attached to the earth.

"Imprisonment." (33) "imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code[3].

"India." (34) "India" shall mean British India, together with any territories of any Native Prince or Chief under the suzerainty of His Majesty exercised through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India.

"Local authority." (35) "local authority" shall mean a body of municipal or station commissioners, district board, body of port commissioners or other authority entrusted by the Government with, or legally entitled to, the *control or management of a municipal or local fund,* [*and in Assam shall include a Local Board*].

"Local Government." (36) "Local Government" shall mean the Lieutenant-Governor of Eastern Bengal and Assam[2].

"Magistrate." (37) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure[3] for the time being in force.

... and Orissa and Assam Laws Act, 1912.

... engal *see* the Bengal Bihar and Orissa ... tem 2, in Vol I of this Code.

... 8

... Act ... 18 ...

(*38*) "master," used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship: "Master (of a ship)

(*39*) "month" shall mean a month reckoned according to the British calendar: "Month"

(*40*) "movable property" shall mean property of every description, except immovable property: "Movable property"

(*41*) "notification" shall mean a notification in the Gazette: Notification

(*42*) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing: "Oath"

(*43*) "offence" shall mean any act or omission made punishable by any law for the time being in force: "Offence"

(*44*) "Part" shall mean a Part of the Act in which the word occurs: "Part"

(*45*) "person" shall include any company or association or body of individuals, whether incorporated or not: "Person"

(*46*) "Political Agent" shall include— "Political Agent"

(*a*) the principal officer representing the Government in any territory or place beyond the limits of British India, and

(*b*) any officer of the Government of India or of any Local Government appointed by the Government of India or the Local Government to exercise all or any of the powers of a Political Agent for any place not forming part of British India under the law for the time being in force relating to foreign jurisdiction and extradition:

(*47*) "Privy Council" shall mean the Lords and others for the time being of His Majesty's Most Honourable Privy Council: "Privy Council"

(*48*) "Province" shall mean the territories for the time being administered by any Local Government: "Province"

(*49*) "public nuisance" shall mean a public nuisance as defined in the Indian Penal Code[1]: "Public nuisance"

(*50*) "registered," used with reference to a document, shall mean registered in British India under the law for the time being in force for the registration of documents: "Registered"

(*51*) "Regulation" shall mean a Regulation made under the Government of India Act, 1870[2]: "Regulation"

(*52*) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment: "Rule"

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[1] Printed in the General Acts 1834-67, Ed 1909, p 248

[2] Printed in the Collection of Statutes relating to India, 1913, Vol I, p 423

"Schedule" (53) "schedule" shall mean a schedule to the Act in which the word occurs

"Scheduled District" (54) "Scheduled District" shall mean a "Scheduled District" as defined in the Scheduled Districts Act, 1874[1]

"Section" (55) "section" shall mean a section of the Act in which the words occurs

"Ship" (56) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars

"Sign" (57) "sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark" with its grammatical variations and cognate expressions

"Son" (58) "son," in the case of any one whose personal law permits adoption, shall include an adopted son

"Sub-section" (59) "sub-section" shall mean a sub-section of the section in which the word occurs

"Swear" (60) "swear," with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing

"Vessel" (61) "vessel" shall include any ship or boat or any other description of vessel used in navigation

"Will" (62) "will" shall include a codicil and every writing making a voluntary posthumous disposition of property

"Writing" (63) expressions referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, and

"Year" (64) "year" shall mean a year reckoned according to the British calendar.

General Rules of Construction

Application of certain of the foregoing definitions to certain Bengal Acts

6. When any Bengal Acts made between the first day of June, 1867, and the eighteenth day of January, 1899, are in force in Eastern Bengal [*and Assam*] or any part thereof, the definitions in section 5 of the following words, that is to say, "affidavit," "Magistrate," "month," "oath," and "swear," apply also, unless there is anything repugnant in the subject or context, to all such Bengal Acts,

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[1] Printed in the General Acts, 1868 78, Ed 1909, p. 441

of 1909.]

(General Rules of Construction.—Secs 7 10)

Continuance of certain definitions for purposes of the said Bengal Acts

7. When any Bengal Acts made between the first day of June, 1867, and the eighteenth day of January, 1899, are in force in Eastern Bengal [*and Assam*] or any part thereof, in all such Bengal Acts, unless there is anything repugnant in the subject or context,

(*1*) 'land' includes houses and buildings and corporeal hereditaments and tenements of any tenure, unless where there are words to exclude houses and buildings or to restrict the meaning to tenements of some particular tenure, and

(*2*) 'person" includes any incorporated company or incorporated association of persons

Application to Bengal Acts made after January 1899

8. When any Bengal Acts made after the eighteenth day of January, 1899 are in force in Eastern Bengal [*and Assam*] or any part thereof, the provisions of section 5, of section 10, of *sections 12 to 15, of section 19, of sections 22 to 24, of section* 29 and of sections 32 and 33 shall apply to all such Bengal Acts

Coming into operation of Acts

9. (*1*) Where any Act[1] is not expressed to come into operation on a particular day, then it shall come into operation on the day on which the assent thereto of the Governor General is first published in the Gazette in pursuance of sections 40 and 48 of the Indian Councils Act, 1861[2], and in every such Act[1] the date of such first publication shall be printed either above or below the title of the Act and shall form part of every such Act

(*2*) Unless the contrary is expressed, an Act[1] shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

Effect of repeal

10. Where any Act[1] repeals any enactment hitherto made, or hereafter to be made, then, unless a different intention appears, the repeal shall not—

(*a*) revive anything not in force or existing at the time at which the repeal takes effect, or

(*b*) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder, or

(*c*) affect any right, privilege, obligation, or liability acquired, accrued or incurred under any enactment so repealed, or

(*d*) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed; or

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[1] i e Acts of the Eastern Bengal and Assam Council *see s 3 ante* p 967

[2] Printed in the Collection of Statutes relating to India, 1913, Vol I, p 313

(*e*) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act had not been passed.

Revival of repealed enactments.

11. (*1*) In any Act[1] it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

(*2*) This section applies also to all Bengal Acts made after the first day of June, 1867.

Construction of references to repealed enactments.

12. Where any Act[1] repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

Commencement and termination of time.

13. In any Act[1] it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from," and, for the purpose of including the last in a series of days or any other period of time, to use the word "to".

Computation of time.

14. Where, by any Act[1], any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1908[2], 9 of
applies.

Measurement of distances.

15. In the measurement of any distance, for the purposes of any Act[1] that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Duty to be taken *pro rata* in enactments.

16. Where, by any Act[1] or by any Bengal Act, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity.

Gender and number.

17. In all Acts[1] and in all Bengal Acts, unless there is anything repugnant in the subject or context,—

(*1*) words importing the masculine gender shall be taken to include females, and

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[1] *i.e.* Acts of the Eastern Bengal and Assam Council, see s. 3, *ante*, p. 967.
[2] Printed in the General Acts, 1904-09, Ed. 1909, p. 4[illegible]6.

of 1909.]

(General Rules of Construction —Powers and Functionaries — Secs 18-24)

(2) words in the singular shall include the plural, and *vice versa*

18. Unless and until extended under the Scheduled Districts Act, 1874[1], or otherwise, no Act[2] in the absence of special provision to the contrary, shall come into force in the districts of the Chittagong Hill-tracts[3], [*the Garo Hills the Khasi and Jaintia Hills, the Lushai Hills and the Naga Hills, the North Cachar sub-division of the Cachar district, the Eastern Duars in the Goalpara district, the Mikir Hills Tracts in the Nowgong and Sibsagar districts, and the Dibrugarh Frontier Tract in the Lakhimpur district*] — Application of Acts

Powers and Functionaries

19. Where, by any Act[2], any power is conferred on the Government, then that power may be exercised from time to time as occasion requires — Powers conferred on the Government to be exerciseable from time to time

20. Where, by any Act[2], or by any Bengal Act, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment may be made either by name or by virtue of office — Power to appoint to include power to appoint *ex officio*

21. Where, by any Act[2], or by any Bengal Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power — Power to appoint to include power to suspend or dismiss

22. In any Act[2], it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed — Substitution of functionaries

23. In any Act[2], it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations — Successors

24. In any Act[2], it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior — Official chiefs and subordinates.

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[1] Printed in the General Acts, 1868 78, Ed 1909, p 441

[2] *i e*, Acts of the Eastern Bengal and Assam Council *see* s 3, *ante* p 967

[3] As to the Chittagong Hill tracts, *see* also the Chittagong Hill tracts Regulation, 1900 (1 of 1900), s 4, in Vol I of this Code

Provisions as to Orders, Rules, etc., made under Enactments.

Construction of orders etc issued under enactments

25. Where, by any Act[1], or by any Bengal Act, a power to make or issue any notification, order, scheme, rule, form or by-law is conferred, then expressions used in the notification, order, scheme rule, form, or by-law, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act[1] or Bengal Act conferring the power.

Power to make to include power to add to, amend vary or rescind, orders, rules or by-laws

26. Where, by any Act[1], or by any Bengal Act, a power to make or issue notifications, orders, schemes, rules, forms, or by-laws is conferred, then that power includes a power exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifications, orders, schemes, rules, forms or by-laws so made

Making of rules or by laws and issuing of orders between passing and commencement of enactment

27. Where, by any Act[1], which is not to come into operation on the day on which the assent thereto of the Governor General is first published in the Gazette a power is conferred to make rules or by-laws, or to issue orders with respect to the application of the Act or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act[1], then that power may be exercised at any time after the assent of the Governor General has been published as aforesaid, but rules, by-laws or orders so made or issued shall not take effect till the commencement of the Act[1]

Provisions applicable to making of rules or by laws after previous publication

28. Where, by any Act[1], or by any Bengal Act, a power to make rules or by-laws is expressed to be given subject to the condition of the rules or by-laws being made after previous publication, then the following provisions shall apply, namely —

(*1*) the authority having power to make the rules or by-laws shall, before making them, publish a draft of the proposed rules or by-laws for the information of persons likely to be affected thereby ;

(*2*) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Local Government[2] prescribes,

(*3*) there shall be published with the draft a notice specifying a date on or after which the draft will [illegible] into consideration,

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[1] i.e. Acts of the Eastern Bengal and Assam Council, see s 3, ante p [illegible]
[2] Now the Governor in Council of Fort William in Bengal, see the B[illegible] Assam La[illegible] Act, 1912 (7 of 1912) s 3, and Sch D, item 2, in Vol I of [illegible]

(*Provisions as to Orders, Rules, etc., made under Enactments —Miscellaneous —Secs. 29-32.*)

(4) the authority having power to make the rules or by laws, and where the rules or by-laws are to be made with the sanction, approval or concurrence of another authority, that authority also shall consider any objection or suggestion which may be received by the authority having power to make the rules or by-laws from any person with respect to the draft before the date so specified,

(5) the publication in the Gazette of a rule or by-law purporting to have been made in exercise of a power to make rules or by-laws after previous publication shall be conclusive proof that the rule or by-law has been duly made

Continuation of orders etc issued under enactments repealed and re-enacted

29. Where any enactment is repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, form or by-law, made or issued under the repealed enactment, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule form or by-law made or issued under the provisions so re-enacted

Miscellaneous

Recovery of fines

30. Sections 63 to 70 of the Indian Penal Code [1], and the provisions of the Code of Criminal Procedure [2] for the time being in force in relation to the issue and the execution of warrants for the levy of fines, shall apply to all fines imposed under any enactment or any rule or by-law made under any enactment, unless the enactment, rule or by-law contains an express provision to the contrary

Provision as to offences punishable under two or more enactments

31. Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence

Meaning of service by post

32. Where any Act [3] authorizes or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post a letter containing the

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[1] Printed in the General Acts, 1834 67, Ed 1909, pp 260 262
[2] Printed in the General Acts, 1898-03, Ed 1909 p 38
[3] i e, Acts of the Eastern Bengal and Assam Council, see s 3, *ante*, p 967

document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Citation of enactments

33. *(1)* In any Act[1], and in any rule, by-law, instrument or document, made under, or with reference to, any such Act[1], any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In any Act[1], a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Saving of previous enactments, rules and by-laws

34. Where any enactment, rule or by-law made after the eighteenth day of January, 1899, continues or amends any enactments, rules or by-laws made before the said eighteenth day of January, 1899, the foregoing sections of this Act shall not, by reason merely of such continuance or amendment, affect the construction of such enactments, rules or by-laws.

THE SCHEDULE

ENACTMENTS REPEALED.

(See section 2.)

Year	No.	Short title or subject	Extent of repeal
1	2	3	4
		ACTS OF THE LIEUTENANT GOVERNOR OF BENGAL IN COUNCIL	
1867	5	General Clauses	The whole
1899	1	Bengal General Clauses	Ditto

[1] i.e., Acts of the Eastern Bengal and Assam Council, see s. 3, ante, p. 967.

E B AND A ACT 2 OF 1912

(The Jalpaiguri Labour Act, 1912)

CONTENTS

E B AND A ACT 2 OF 1912

(THE JALPAIGURI LABOUR ACT, 1912)[1]

(30th March, 1912)

An Act to provide for the keeping of registers and the submission of returns by employers of labour in the district of Jalpaiguri.

Whereas it is expedient to provide for the keeping of registers and the submission of returns by employers of labour in the district of Jalpaiguri, Preamble

It is hereby enacted as follows —

1. This Act may be called the Jalpaiguri Labour Act, 1912 Short title

2. It extends— Extent

(*a*) to the district of Jalpaiguri; and

(*b*) to such other parts of Eastern Bengal [*and Assam*] as the Local Government[2] may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette[3], direct

3. It shall come into force— Commencement

(*i*) in the territories mentioned in clause (*a*) of section 2, at once, and

(*ii*) in any territories to which it may be extended by a notification under clause (*b*) of the said section, on such day as may be specified in that behalf in the notification.

4. In this Act, unless there is anything repugnant in the subject or context,— Definitions

(*a*) "estate" means the land upon which more than 50 persons have been engaged to labour;

(*b*) "employer" means the chief person for the time being in charge of any estate,

(*c*) "Inspector" means an Inspector appointed[4] under this Act by the Local Government[2], and includes the Magistrate of the district.

[illegible] azette, 1911, [illegible] ette Extra [illegible] xtended by [illegible] gong Hill [illegible] Orissa and [illegible] 1912 (7 of [illegible] nuary, 1913, [illegible]

(Secs 5-10)

Registers to be kept and returns made by employers

5. Every employer shall keep such registers of all persons employed on the estate of which he is in charge and of their dependants, in such form, and shall make to the Inspector such periodical returns in writing, as the Local Government[1] may, by rule[2], prescribe

Power of the Inspector to inspect lands and houses and to make requisitions and inquiries

6. Any of the entries in the registers return, and for this purpose and houses used by the persons employed on the estate, and may require that the persons employed on the estate, or any particular class or classes or individual or individuals of them, shall be brought before him, and may make any inquiries which he thinks proper regarding the accuracy of the entries in the registers or returns, and the employer shall be bound to the best of his ability to comply with every such requisition and to answer every such inquiry made by the Inspector

Power to make rules

7. (1) In addition to the powers hereinbefore conferred, the Local Government[1] may make rules[2] to carry out any of the purposes of this Act

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the form of all registers under this Act,

(b) define and regulate the powers and duties of Inspectors appointed by it under this Act,

(c) prescribe what returns and reports shall be made under this Act by any such Inspector or by any employer, and the form in which such returns and reports shall be respectively so made

Employer refusing or omitting to keep registers, etc

8. Whoever, being an employer, refuses or wilfully omits to keep such registers or to make such periodical returns in writing to the Inspector as may be prescribed by any rule made under this Act, or knowingly keeps an incorrect register or makes an incorrect return, shall be punishable with fine which may extend to Rs 200

Employer or other person obstructing Inspector under section 6

9. Whoever, being an employer or acting under the orders or on behalf of an employer, wilfully obstructs any entry, inspection or inquiry, or omits to comply with any requisition, made under section 6, shall for every such offence be punishable with fine which may extend to Rs 200

Powers of Local Government to exclude estates etc, from the Act

10. The Local Government[1] may, by notification in the local official Gazette[3], exclude any specified portion of the district, or any specified estates or class of estates, from the operation of this Act

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[1] Now the Governor in Council of Fort William in Bengal *see* the Bengal Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912) s 3 and Sch D, item 7 in Vol I of this Code

[2] For rules issued under ss 5 and 7 *see* Calcutta Gazette 1913, Pt I, p 1 0 and *ibid*, 1914 Pt I, p 2407

[3] Now the Calcutta Gazette *see* the Bengal Bihar and Orissa and Assam Laws Act 1912 (7 of 1912) s 3, and Sch D, item 7, in Vol I of this Code

E. B. AND A. ACT 3 OF 1912

(THE EASTERN BENGAL AND ASSAM MILITARY POLICE ACT, 1912)

CONTENTS

E B AND A ACT 3 OF 1912

(THE EASTERN BENGAL AND ASSAM MILITARY POLICE ACT, 1912)[1]

(30th March, 1912.)

An Act for the Regulation of the Eastern Bengal [*and Assam*] Military Police.

Whereas it is expedient to consolidate and amend the law in force in Eastern Bengal [*and Assam*] relating to the maintenance of discipline among Military Police Officers ;

With the previous sanction of the Governor General in Council, it is hereby enacted as follows :—

1. (*1*) This Act may be called the Eastern Bengal and Assam Military Police Act, 1912 ; Title extent and commencement.

(*2*) It extends to the whole of Eastern Bengal [*and Assam*], and

(*3*) It shall come into force on such day[2] as the Local Government[3] may, by notification in the Eastern Bengal and Assam Gazette[4], appoint in this behalf.

2. The Bengal Military Police Act, 1892[5], [*and the Assam Military Police Regulation, 1890*], are hereby repealed. Repeal.

3. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(*1*) " active service " means service at outposts or against hostile tribes or other persons in the field ;

(*2*) " Commandant " or " Assistant Commandant " means a person appointed by the Local Government[3] to be a Commandant or an Assistant Commandant of Military Police ;

B & A Gazette, and E B and A

ing the Chittagong

[5] Printed in Vol 1 of this Code

(*Sec* 6)

6. A Military Police Officer who, whether within or without British India— Heinous offences

(*a*) begins, excites, causes or joins in any mutiny or sedition, or, being present at any mutiny or sedition, does not use his utmost endeavours to suppress it, or, knowing or having reason to believe in the existence, of any mutiny or sedition, does not without delay give information thereof to his Commanding or other superior officer, or

(*b*) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, knowing or having reason to believe him to be such, whether on or off duty, or

(*c*) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed to his charge or which it is his duty to defend, or

(*d*) in the presence of an enemy or of any person in arms against whom it is his duty to act, shamefully casts away his arms or his ammunition, or intentionally uses words or any other means to induce any Police Officer to abstain from acting against the enemy or to discourage such officer from acting against the enemy, or who otherwise misbehaves, or

(*e*) directly or indirectly holds correspondence with, or communicates intelligence to, or assists, or relieves any person in arms against the State, or omits to discover immediately to his Commanding or other superior officer any such correspondence or communications coming to his knowledge, or

(*f*) directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects, any enemy or person in arms against the State, or

who, while on active service,—

(*g*) disobeys the lawful command of his superior officer, or

(*h*) deserts or attempts to desert the service, or

(*i*) being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave, or

(*j*) without authority leaves his Commanding Officer, or his post or party, to go in search of plunder; or

(*k*) quits his guard, picquet, party or patrol without being regularly relieved or without leave, or

(*l*) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard, or without authority breaks into any house or any other place

(Secs. 4, 5.)

(3) "District Magistrate" includes a Deputy Commissioner [*and the Superintendent of the Lushai Hills*] and the Superintendent of the Chittagong Hill-tracts,

(4) "Military Police Officer" means a Police Officer appointed under section 7 of Act 5 of 1861 [1] who has signed the statement in the Schedule to this Act in accordance with the provisions of this Act, and includes a Military Police Officer appointed under the Bengal Military Police Act, 1892 [2] [*or the Assam Military Police Regulation, 1890*,] 5 of / 4 of

(5) "superior officer" means, in relation to any Military Police Officer,—

(*a*) any officer of a higher class than, or of a higher grade in the same class as, himself, and

(*b*) any Assistant Commandant, Commandant or District Magistrate,

(6) the expressions "reason to believe," "criminal force," "assault," "fraudulently" and "voluntarily causing hurt" have the meanings assigned to them respectively in the Indian Penal Code [3]. 45 o

Appointment and discharge

4. (*1*) Before a Police Officer appointed under section 7 of Act 5 of 1861 [1] is appointed to be a Military Police Officer, the statement in the Schedule shall be read and, if necessary, explained, to him, in the presence of a Magistrate, Commandant or Assistant Commandant, and shall be signed by him in acknowledgment of its having been so read to him.

(*2*) Notwithstanding section 9 of Act 5 of 1861 [1], a Military Police Officer shall not be entitled to be discharged except in accordance with the terms of the statement which he has signed under this Act

Classes and rank of Military Police Officers

5. There may be all or any of the following classes of Military Police Officers, who shall take rank in the order mentioned, namely —

(*i*) *Subadars*-Major,

(*ii*) *Subadars*,

(*iii*) *Jamadars*,

(*iv*) *Havildars*-Major,

(*v*) *Havildars*,

(*vi*) *Naiks*,

(*vii*) Buglers and *sipahis*,

and such grades in each class as the Local Government [4] may, from time to time, direct.

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[1] Printed in the General Acts, 1834 67, Ed 1909, p 3 8

[2] Act 5 of 1892 is repealed in Eastern Bengal by the present Act—*see* s 2, *ante* It is repealed in Western Bengal by the Bengal Laws Act 1914 s 6 Sch IV

[3] Printed in the General Acts, 1834 67, Ed 1909, p 248

[4] Now the Governor in Council of Fort William in Bengal—*see* the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s 3, and Sch D, item 2, in Vol I of this Code

(*Sec 6*)

6. A Military Police Officer who, whether within or without British India— Heinous offences

(*a*) begins, excites, causes or joins in any mutiny or sedition, or, being present at any mutiny or sedition, does not use his utmost endeavours to suppress it, or, knowing or having reason to believe in the existence, of any mutiny or sedition, does not without delay give information thereof to his Commanding or other superior officer, or

(*b*) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, knowing or having reason to believe him to be such, whether on or off duty or

(*c*) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed to his charge or which it is his duty to defend, or

(*d*) in the presence of an enemy or of any person in arms against whom it is his duty to act, shamefully casts away his arms or his ammunition, or intentionally uses words or any other means to induce any Police Officer to abstain from acting against the enemy or to discourage such officer from acting against the enemy, or who otherwise misbehaves; or

(*e*) directly or indirectly holds correspondence with, or communicates intelligence to, or assists, or relieves any person in arms against the State, or omits to discover immediately to his Commanding or other superior officer any such correspondence or communications coming to his knowledge, or

(*f*) directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects, any enemy or person in arms against the State, or

who, while on active service,—

(*g*) disobeys the lawful command of his superior officer, or

(*h*) deserts or attempts to desert the service, or

(*i*) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave, or

(*j*) without authority leaves his Commanding Officer, or his post or party, to go in search of plunder, or

(*k*) quits his guard, picquet, party or patrol without being regularly relieved or without leave; or

(*l*) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard, or without authority breaks into any house or any other place

for plunder, or plunders, destroys or damages any property of any kind; or

(*m*) intentionally causes or spreads a false alarm in action, camp, garrison or quarters;

shall be punished with transportation for life, or with imprisonment which may extend to fourteen years to which a fine not exceeding five hundred rupees may be added, or with a fine not exceeding five hundred rupees.

Good order and military police discipline.
Other offences including acts prejudicial to

7. A Military Police Officer who, whether within or without British India,—

(*a*) is in a state of intoxication when on or detailed for any duty, or on parade, or on the line of march, or

(*b*) strikes, or forces or attempts to force, any sentry, or

(*c*) being in command of a guard, picquet or patrol, refuses to receive any prisoner duly committed to his charge, or, whether in such command or not, releases any prisoner without proper authority or negligently suffers any prisoner to escape, or

(*d*) being deputed to any guard, picquet or patrol quits it without being regularly relieved or without leave, or

(*e*) being in command of a guard, picquet or patrol, permits gambling or other behaviour prejudicial to good order and military police discipline; or

(*f*) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority, or

(*g*) is grossly insubordinate or insolent to his superior officer in the execution of his office; or

(*h*) refuses to superintend or assist in the making of any field work or other military work of any description ordered to be made either in quarters or in the field, or

(*i*) strikes or otherwise ill-uses any Military Police Officer subordinate to him in rank or position; or

(*j*) being in command at any post or on the march and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made as far as possible to the injured person and to report the case to the proper authority, or

(*k*) designedly or through neglect injures or loses or fraudulently or without due authority disposes of his arms, clothes, tools, equipment, ammunition,

(*Sec. 8.*)

accoutrements or other necessaries, or any such articles entrusted to him or belonging to any other person; or

(*l*) malingers, feigns or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity; or

(*m*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or

(*n*) commits extortion, or without proper authority exacts from any person carriage, porterage or provisions, or

(*o*) designedly or through neglect kills, injures, makes away with, ill-treats or loses his horse or any animal used in the public service, or

who, while not on active service,—

(*p*) disobeys the lawful command of his superior officer, or

(*q*) plunders, destroys or damages any property of any kind, or

(*r*) being a sentry, sleeps at his post or quits it without being regularly relieved or without leave; or

(*s*) deserts or attempts to desert the service, or

(*t*) neglects to obey any battalion or other orders or commits any act or omission prejudicial to good order and military police discipline, such act or omission not constituting an offence under the Indian Penal Code[1] or other Act in force in Eastern Bengal [*and Assam*,]

shall be punished with imprisonment for a term which may extend to one year, or with a fine not exceeding two hundred rupees, or with both

8. (*1*) A District Magistrate or a Commandant, or, subject to the control of the Commandant, an Assistant Commandant, and subject to the same control, an officer not below the rank of a *Jamadar* commanding a separate detachment or an outpost or in temporary command of the Military Police at the headquarters of a district during the absence of the District Magistrate, Commandant and Assistant Commandant, may, without a formal trial, award to any Military Police officer below the rank of *Naik* who is subject to his authority any of the following punishments for the commission of any petty offence against discipline, which is not otherwise provided for in this Act, or which is not of a sufficiently serious ...

[1] Printed in the General Acts, 1834-67, Ed 1909, p 248

to call for a prosecution before a Criminal Court, that is to say —

(*a*) imprisonment to the extent of seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of pay and allowances during its continuance;

(*b*) punishment drill, extra guard, fatigue or other duty not exceeding thirty days in duration, with or without confinement to lines,

(*c*) *forfeiture of pay and allowances for a period not* exceeding one month

(2) Any of these punishments may be awarded separately or in combination with any one or more of the others

Manner of imprisonment

9. Any Military Police Officer sentenced under this Act to imprisonment for a period not exceeding three months shall, when he is also dismissed from the police force, be imprisoned in the nearest or such other jail as the Local Government[1] may, by general or special order, direct, but, when he is not also dismissed from that force, he may, if the convicting Court or the District Magistrate so directs, be confined in the quarter-guard or such other place as the Court or Magistrate may consider suitable

Powers of Commandants and Assistant Commandants for inquiring into offences under this and other Acts

10. Notwithstanding anything in Act 5 of 1861[2], or in any other enactment for the time being in force, the Local Government[1] may invest any Commandant or Assistant Commandant with the powers of a Magistrate of any class for the purpose of inquiring into or trying any offence committed by a Military Police Officer and punishable under Act 5 of 1861[2] or this Act, and any offence committed by a Military Police Officer against the person or property of another such Officer and punishable under any section of the Indian Penal Code[3] or of any other Act in force in Eastern Bengal [*and Assam*]

Privileges of Commandants and Assistant Commandants

11. A Commandant or Assistant Commandant of Military Police shall be entitled to all the privileges which a Police Officer has under sections 42 and 43 of Act 5 of 1861[2], section 125 of the Indian Evidence Act, 1872[4], and any other enactment for the time being in force,

and shall, *subject to such rules as the Local Government*[1] shall from time to time make in this behalf, exercise all the powers of District Superintendents of Police within the meaning of Act 5 of 1861[2]

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the Bengal, Bihar and Orissa
ol I of this Code

(*Sec 12 and the Schedule*)

12. The Local Government [1] may, as regards the Military Police, make such orders and rules, consistent with this Act, as it thinks expedient, relative to the several matters respecting which the Inspector-General of Police with the approval of the Local Government [1], may, as regards the Police force, frame orders and rules under section 12 [2] of Act 5 of 1861 — Power of Local Government to make rules

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THE SCHEDULE

STATEMENT

(*See sections 3 and 4*)

After you have served for three years in the Eastern Bengal and Assam Military Police, you may, at any time when not on active service, apply for your discharge, through the officer to whom you may be subordinate, to a Commandant of Military Police, or to the Magistrate of the district in which you may be serving, and you will be granted your discharge after two months from the date of your application, unless your discharge would cause the vacancies in the Military Police to exceed one-tenth of the sanctioned strength in that case you must remain until this objection is waived by competent authority or removed But when on active service you have no claim to a discharge and you must remain and do your duty until the necessity for retaining you in the Military Police ceases, when you may make your application in the manner hereinbefore prescribed In the event of your re-enlistment after you have been discharged, you will have no claim to reckon for pension or any other purpose your service previous to your discharge

Signature of Police Officer in acknowledgment of the above having been read to him	A. B.
Signed in my presence after I had ascertained that A. B. understood the purport of what he signed	C. D *Magistrate, Commandant or Assistant Commandant.*

[1] Now the Governor in Council of Fort William in Bengal—*see* the Bengal, Bihar and Orissa and Assam Laws Act, 191? (7 of 1912) s 3 and Sch D item ? in Vol I of this Code

[2] Printed in the General Acts 1834 ..., Ed 1909, p 383